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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0023.1/19

ATTY/TYPIST: JA:eab

BRIEF DESCRIPTION: Concerning the uniform guardianship,  
conservatorship, and other protective  
arrangements act.

1 AN ACT Relating to the uniform guardianship, conservatorship, and  
2 other protective arrangements act; adding a new chapter to Title 11  
3 RCW; repealing RCW 11.88.005, 11.88.008, 11.88.010, 11.88.020,  
4 11.88.030, 11.88.040, 11.88.045, 11.88.080, 11.88.090, 11.88.093,  
5 11.88.095, 11.88.097, 11.88.100, 11.88.105, 11.88.107, 11.88.110,  
6 11.88.120, 11.88.125, 11.88.127, 11.88.130, 11.88.140, 11.88.150,  
7 11.88.160, 11.88.170, 11.88.900, 11.92.010, 11.92.035, 11.92.040,  
8 11.92.043, 11.92.050, 11.92.053, 11.92.056, 11.92.060, 11.92.090,  
9 11.92.096, 11.92.100, 11.92.110, 11.92.115, 11.92.120, 11.92.125,  
10 11.92.130, 11.92.140, 11.92.150, 11.92.160, 11.92.170, 11.92.180,  
11 11.92.185, 11.92.190, and 11.92.195; and providing an effective date.

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

13 **ARTICLE 1**  
14 **GENERAL PROVISIONS**

15 NEW SECTION. **Sec. 101.** SHORT TITLE. This chapter may be cited  
16 as the uniform guardianship, conservatorship, and other protective  
17 arrangements act.

1        NEW SECTION.    **Sec. 102.**    DEFINITIONS. The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4        (1) "Adult" means an individual at least eighteen years of age or  
5 an emancipated individual under eighteen years of age.

6        (2) "Adult subject to conservatorship" means an adult for whom a  
7 conservator has been appointed under this chapter.

8        (3) "Adult subject to guardianship" means an adult for whom a  
9 guardian has been appointed under this chapter.

10       (4) "Claim" includes a claim against an individual or  
11 conservatorship estate, whether arising in contract, tort, or  
12 otherwise.

13       (5) "Commissioner" means the person appointed by the court  
14 pursuant to section 512 of this act.

15       (6) "Conservator" means a person appointed by a court to make  
16 decisions with respect to the property or financial affairs of an  
17 individual subject to conservatorship. The term includes a co-  
18 conservator.

19       (7) "Conservatorship estate" means the property subject to  
20 conservatorship under this chapter.

21       (8) "Evaluation and treatment facility" has the same meaning as  
22 provided in RCW 71.05.020.

23       (9) "Full conservatorship" means a conservatorship that grants  
24 the conservator all powers available under this chapter.

25       (10) "Full guardianship" means a guardianship that grants the  
26 guardian all powers available under this chapter.

27       (11) "Guardian" means a person appointed by the court to make  
28 decisions with respect to the personal affairs of an individual. The  
29 term includes a co-guardian but does not include a guardian ad litem.

30       (12) "Guardian ad litem" means a person appointed to inform the  
31 court about, and to represent, the needs and best interests of an  
32 individual.

33       (13) "Individual subject to conservatorship" means an adult or  
34 minor for whom a conservator has been appointed under this chapter.

35       (14) "Individual subject to guardianship" means an adult or minor  
36 for whom a guardian has been appointed under this chapter.

37       (15) "Less restrictive alternative" means an approach to meeting  
38 an individual's needs which restricts fewer rights of the individual  
39 than would the appointment of a guardian or conservator. The term  
40 includes supported decision making, appropriate technological

1 assistance, appointment of a representative payee, and appointment of  
2 an agent by the individual, including appointment under a power of  
3 attorney for health care or power of attorney for finances.

4 (16) "Letters of office" means a record issued by a court  
5 certifying a guardian's or conservator's authority to act.

6 (17) "Limited conservatorship" means a conservatorship that  
7 grants the conservator less than all powers available under this  
8 chapter, grants powers over only certain property, or otherwise  
9 restricts the powers of the conservator.

10 (18) "Limited guardianship" means a guardianship that grants the  
11 guardian less than all powers available under this chapter or  
12 otherwise restricts the powers of the guardian.

13 (19) "Long-term care facility" has the same meaning as provided  
14 in RCW 70.129.010.

15 (20) "Minor" means an unemancipated individual under eighteen  
16 years of age.

17 (21) "Minor subject to conservatorship" means a minor for whom a  
18 conservator has been appointed under this chapter.

19 (22) "Minor subject to guardianship" means a minor for whom a  
20 guardian has been appointed under this chapter.

21 (23) "Parent" does not include an individual whose parental  
22 rights have been terminated.

23 (24) "Person" means an individual, estate, business or nonprofit  
24 entity, public corporation, government or governmental subdivision,  
25 agency, or instrumentality, or other legal entity.

26 (25) "Property" includes tangible and intangible property.

27 (26) "Protective arrangement instead of conservatorship" means a  
28 court order entered under section 503 of this act.

29 (27) "Protective arrangement instead of guardianship" means a  
30 court order entered under section 502 of this act.

31 (28) "Protective arrangement under article 5 of this chapter"  
32 means a court order entered under section 502 or 503 of this act.

33 (29) "Record," used as a noun, means information that is  
34 inscribed on a tangible medium or that is stored in an electronic or  
35 other medium and is retrievable in perceivable form.

36 (30) "Respondent" means an individual for whom appointment of a  
37 guardian or conservator or a protective arrangement instead of  
38 guardianship or conservatorship is sought.

39 (31) "Sign" means, with present intent to authenticate or adopt a  
40 record:

1 (a) To execute or adopt a tangible symbol; or

2 (b) To attach to or logically associate with the record an  
3 electronic symbol, sound, or process.

4 (32) "Standby guardian" means a person appointed by the court  
5 under section 207 of this act.

6 (33) "State" means a state of the United States, the District of  
7 Columbia, Puerto Rico, the United States Virgin Islands, or any  
8 territory or insular possession subject to the jurisdiction of the  
9 United States. The term includes a federally recognized Indian tribe.

10 (34) "Supported decision making" means assistance from one or  
11 more persons of an individual's choosing in understanding the nature  
12 and consequences of potential personal and financial decisions, which  
13 enables the individual to make the decisions, and in communicating a  
14 decision once made if consistent with the individual's wishes.

15 (35) "Visitor" means the person appointed by the court pursuant  
16 to section 304(1) or 405(1) of this act.

17 NEW SECTION. **Sec. 103.** SUPPLEMENTAL PRINCIPLES OF LAW AND  
18 EQUITY APPLICABLE. Unless displaced by a particular provision of this  
19 chapter, the principles of law and equity supplement its provisions.

20 NEW SECTION. **Sec. 104.** SUBJECT MATTER JURISDICTION. (1) Except  
21 to the extent jurisdiction is precluded by the uniform child custody  
22 jurisdiction and enforcement act (chapter 26.27 RCW), the superior  
23 court of each county has jurisdiction over a guardianship for a minor  
24 domiciled or present in this state. The court has jurisdiction over a  
25 conservatorship or protective arrangement instead of conservatorship  
26 for a minor domiciled or having property in this state.

27 (2) The superior court of each county has jurisdiction over a  
28 guardianship, conservatorship, or protective arrangement under  
29 article 5 of this chapter for an adult as provided in the uniform  
30 adult guardianship and protective proceedings jurisdiction act  
31 (chapter 11.90 RCW).

32 (3) After notice is given in a proceeding for a guardianship,  
33 conservatorship, or protective arrangement under article 5 of this  
34 chapter and until termination of the proceeding, the court in which  
35 the petition is filed has:

36 (a) Exclusive jurisdiction to determine the need for the  
37 guardianship, conservatorship, or protective arrangement;

1 (b) Exclusive jurisdiction to determine how property of the  
2 respondent must be managed, expended, or distributed to or for the  
3 use of the respondent, an individual who is dependent in fact on the  
4 respondent, or other claimant;

5 (c) Nonexclusive jurisdiction to determine the validity of a  
6 claim against the respondent or property of the respondent or a  
7 question of title concerning the property; and

8 (d) If a guardian or conservator is appointed, exclusive  
9 jurisdiction over issues related to administration of the  
10 guardianship or conservatorship.

11 (4) A court that appoints a guardian or conservator, or  
12 authorizes a protective arrangement under article 5 of this chapter,  
13 has exclusive and continuing jurisdiction over the proceeding until  
14 the court terminates the proceeding or the appointment or protective  
15 arrangement expires by its terms.

16 NEW SECTION. **Sec. 105.** TRANSFER OF PROCEEDING. (1) This section  
17 does not apply to a guardianship or conservatorship for an adult that  
18 is subject to the transfer provisions of the uniform adult  
19 guardianship and protective proceedings jurisdiction act (chapter  
20 11.90 RCW).

21 (2) After appointment of a guardian or conservator, the court  
22 that made the appointment may transfer the proceeding to a court in  
23 another county in this state or another state if transfer is in the  
24 best interest of the individual subject to the guardianship or  
25 conservatorship.

26 (3) If a proceeding for a guardianship or conservatorship is  
27 pending in another state or a foreign country and a petition for  
28 guardianship or conservatorship for the same individual is filed in a  
29 court in this state, the court shall notify the court in the other  
30 state or foreign country and, after consultation with that court,  
31 assume or decline jurisdiction, whichever is in the best interest of  
32 the respondent.

33 (4) A guardian or conservator appointed in another state or  
34 country may petition the court for appointment as a guardian or  
35 conservator in this state for the same individual if jurisdiction in  
36 this state is or will be established. The appointment may be made on  
37 proof of appointment in the other state or foreign country and  
38 presentation of a certified copy of the part of the court record in  
39 the other state or country specified by the court in this state.

1 (5) Notice of hearing on a petition under subsection (4) of this  
2 section, together with a copy of the petition, must be given to the  
3 respondent, if the respondent is at least twelve years of age at the  
4 time of the hearing, and to the persons that would be entitled to  
5 notice if the procedures for appointment of a guardian or conservator  
6 under this chapter were applicable. The court shall make the  
7 appointment unless it determines the appointment would not be in the  
8 best interest of the respondent.

9 (6) Not later than fourteen days after appointment under  
10 subsection (5) of this section, the guardian or conservator shall  
11 give a copy of the order of appointment to the individual subject to  
12 guardianship or conservatorship, if the individual is at least twelve  
13 years of age, and to all persons given notice of the hearing on the  
14 petition.

15 NEW SECTION. **Sec. 106.** VENUE. (1) Venue for a guardianship  
16 proceeding for a minor is in:

17 (a) The county in which the minor resides or is present at the  
18 time the proceeding commences; or

19 (b) The county in which another proceeding concerning the custody  
20 or parental rights of the minor is pending.

21 (2) Venue for a guardianship proceeding or protective arrangement  
22 instead of guardianship for an adult is in:

23 (a) The county in which the respondent resides;

24 (b) If the respondent has been admitted to an institution by  
25 court order, the county in which the court is located; or

26 (c) If the proceeding is for appointment of an emergency guardian  
27 for an adult, the county in which the respondent is present.

28 (3) Venue for a conservatorship proceeding or protective  
29 arrangement instead of conservatorship is in:

30 (a) The county in which the respondent resides, whether or not a  
31 guardian has been appointed in another county or other jurisdiction;  
32 or

33 (b) If the respondent does not reside in this state, in any  
34 county in which property of the respondent is located.

35 (4) If proceedings under this chapter are brought in more than  
36 one county, the court of the county in which the first proceeding is  
37 brought has the exclusive right to proceed unless the court  
38 determines venue is properly in another court or the interest of  
39 justice otherwise requires transfer of the proceeding.

1        NEW SECTION.     **Sec. 107.**     PRACTICE IN COURT. (1) Except as  
2 otherwise provided in this chapter, the rules of evidence and civil  
3 procedure, including rules concerning appellate review, govern a  
4 proceeding under this chapter.

5        (2) If proceedings for a guardianship, conservatorship, or  
6 protective arrangement under article 5 of this chapter for the same  
7 individual are commenced or pending in the same court, the  
8 proceedings may be consolidated.

9        (3) A respondent may demand a jury trial in a proceeding under  
10 this chapter on the issue whether a basis exists for appointment of a  
11 guardian or conservator.

12       NEW SECTION.     **Sec. 108.**     LETTERS OF OFFICE. (1) The court shall  
13 issue letters of office to a guardian on filing by the guardian of an  
14 acceptance of appointment.

15        (2) The court shall issue letters of office to a conservator on  
16 filing by the conservator of an acceptance of appointment and filing  
17 of any required bond or compliance with any other asset protection  
18 arrangement required by the court.

19        (3) Limitations on the powers of a guardian or conservator or on  
20 the property subject to conservatorship must be stated on the letters  
21 of office.

22        (4) The court at any time may limit the powers conferred on a  
23 guardian or conservator. The court shall issue new letters of office  
24 to reflect the limitation. The court shall give notice of the  
25 limitation to the guardian or conservator, individual subject to  
26 guardianship or conservatorship, each parent of a minor subject to  
27 guardianship or conservatorship, and any other person the court  
28 determines.

29       NEW SECTION.     **Sec. 109.**     EFFECT OF ACCEPTANCE OF APPOINTMENT. On  
30 acceptance of appointment, a guardian or conservator submits to  
31 personal jurisdiction of the court in this state in any proceeding  
32 relating to the guardianship or conservatorship.

33       NEW SECTION.     **Sec. 110.**     CO-GUARDIAN—CO-CONSERVATOR. (1) The  
34 court at any time may appoint a co-guardian or co-conservator to  
35 serve immediately or when a designated event occurs.



1 (2) A co-guardian or co-conservator appointed to serve  
2 immediately may act when that co-guardian or co-conservator complies  
3 with section 108 of this act.

4 (3) A co-guardian or co-conservator appointed to serve when a  
5 designated event occurs may act when:

6 (a) The event occurs; and

7 (b) That co-guardian or co-conservator complies with section 108  
8 of this act.

9 (4) Unless an order of appointment under subsection (1) of this  
10 section or subsequent order states otherwise, co-guardians or co-  
11 conservators shall make decisions jointly.

12 NEW SECTION. **Sec. 111.** JUDICIAL APPOINTMENT OF SUCCESSOR  
13 GUARDIAN OR SUCCESSOR CONSERVATOR. (1) The court at any time may  
14 appoint a successor guardian or successor conservator to serve  
15 immediately or when a designated event occurs.

16 (2) A person entitled under section 202 or 302 of this act to  
17 petition the court to appoint a guardian may petition the court to  
18 appoint a successor guardian. A person entitled under section 402 of  
19 this act to petition the court to appoint a conservator may petition  
20 the court to appoint a successor conservator.

21 (3) A successor guardian or successor conservator appointed to  
22 serve when a designated event occurs may act as guardian or  
23 conservator when:

24 (a) The event occurs; and

25 (b) The successor complies with section 108 of this act.

26 (4) A successor guardian or successor conservator has the  
27 predecessor's powers unless otherwise provided by the court.

28 NEW SECTION. **Sec. 112.** EFFECT OF DEATH, REMOVAL, OR RESIGNATION  
29 OF GUARDIAN OR CONSERVATOR. (1) Appointment of a guardian or  
30 conservator terminates on the death or removal of the guardian or  
31 conservator, or when the court under subsection (2) of this section  
32 approves a resignation of the guardian or conservator.

33 (2) A guardian or conservator must petition the court to resign.  
34 The petition may include a request that the court appoint a  
35 successor. Resignation of a guardian or conservator is effective on  
36 the date the resignation is approved by the court.

1 (3) Death, removal, or resignation of a guardian or conservator  
2 does not affect liability for a previous act or the obligation to  
3 account for:

4 (a) An action taken on behalf of the individual subject to  
5 guardianship or conservatorship; or

6 (b) The individual's funds or other property.

7 NEW SECTION. **Sec. 113.** NOTICE OF HEARING GENERALLY. (1) Except  
8 as otherwise provided in sections 203, 207, 303, 403, and 505 of this  
9 act, if notice of a hearing under this chapter is required, the  
10 movant shall give notice of the date, time, and place of the hearing  
11 to the person to be notified unless otherwise ordered by the court  
12 for good cause. Except as otherwise provided in this chapter, notice  
13 must be given in compliance with the local superior court's rule of  
14 civil procedure at least fourteen days before the hearing.

15 (2) Proof of notice of a hearing under this chapter must be made  
16 before or at the hearing and filed in the proceeding.

17 (3) Notice of a hearing under this chapter must be in at least  
18 sixteen-point font, in plain language, and, to the extent feasible,  
19 in a language in which the person to be notified is proficient.

20 NEW SECTION. **Sec. 114.** WAIVER OF NOTICE. (1) Except as  
21 otherwise provided in subsection (2) of this section, a person may  
22 waive notice under this chapter in a record signed by the person or  
23 person's attorney and filed in the proceeding.

24 (2) A respondent, individual subject to guardianship, individual  
25 subject to conservatorship, or individual subject to a protective  
26 arrangement under article 5 of this chapter may not waive notice  
27 under this chapter.

28 NEW SECTION. **Sec. 115.** GUARDIAN AD LITEM. The court at any time  
29 may appoint a guardian ad litem for an individual if the court  
30 determines the individual's interest otherwise would not be  
31 adequately represented. If no conflict of interest exists, a guardian  
32 ad litem may be appointed to represent multiple individuals or  
33 interests. The guardian ad litem may not be the same individual as  
34 the attorney representing the respondent. The court shall state the  
35 duties of the guardian ad litem and the reasons for the appointment.

1        NEW SECTION.    **Sec. 116.**    REQUEST FOR NOTICE. (1) A person may  
2 file with the court a request for notice under this chapter if the  
3 person is:

4        (a) Not otherwise entitled to notice; and

5        (b) Interested in the welfare of a respondent, individual subject  
6 to guardianship or conservatorship, or individual subject to a  
7 protective arrangement under article 5 of this chapter.

8        (2) A request under subsection (1) of this section must include a  
9 statement showing the interest of the person making the request and  
10 the address of the person or an attorney for the person to whom  
11 notice is to be given.

12        (3) If the court approves a request under subsection (1) of this  
13 section, the court shall give notice of the approval to the guardian  
14 or conservator, if one has been appointed, or the respondent if no  
15 guardian or conservator has been appointed.

16        NEW SECTION.    **Sec. 117.**    DISCLOSURE OF BANKRUPTCY OR CRIMINAL  
17 HISTORY. (1) Before accepting appointment as a guardian or  
18 conservator, a person shall disclose to the court whether the person:

19        (a) Is or has been a debtor in a bankruptcy, insolvency, or  
20 receivership proceeding; or

21        (b) Has been convicted of:

22        (i) A felony;

23        (ii) A crime involving dishonesty, neglect, violence, or use of  
24 physical force; or

25        (iii) Other crimes relevant to the functions the individual would  
26 assume as guardian or conservator.

27        (2) A guardian or conservator that engages or anticipates  
28 engaging an agent the guardian or conservator knows has been  
29 convicted of a felony, a crime involving dishonesty, neglect,  
30 violence, or use of physical force, or other crimes relevant to the  
31 functions the agent is being engaged to perform promptly shall  
32 disclose that knowledge to the court.

33        (3) If a conservator engages or anticipates engaging an agent to  
34 manage finances of the individual subject to conservatorship and  
35 knows the agent is or has been a debtor in a bankruptcy, insolvency,  
36 or receivership proceeding, the conservator promptly shall disclose  
37 that knowledge to the court.

1        NEW SECTION.    **Sec. 118.**    MULTIPLE NOMINATIONS. If a respondent or  
2 other person makes more than one nomination of a guardian or  
3 conservator, the latest in time governs.

4        NEW SECTION.    **Sec. 119.**    COMPENSATION AND EXPENSES—IN GENERAL.

5        (1) Unless otherwise compensated or reimbursed, an attorney for a  
6 respondent in a proceeding under this chapter is entitled to  
7 reasonable compensation for services and reimbursement of reasonable  
8 expenses from the property of the respondent.

9        (2) Unless otherwise compensated or reimbursed, an attorney or  
10 other person whose services resulted in an order beneficial to an  
11 individual subject to guardianship or conservatorship or for whom a  
12 protective arrangement under article 5 of this chapter was ordered is  
13 entitled to reasonable compensation for services and reimbursement of  
14 reasonable expenses from the property of the individual.

15        (3) The court must approve compensation and expenses payable  
16 under this section before payment. Approval is not required before a  
17 service is provided or an expense is incurred.

18        (4) If the court dismisses a petition under this chapter and  
19 determines the petition was filed in bad faith, the court may assess  
20 the cost of any court-ordered professional evaluation or visitor  
21 against the petitioner.

22        NEW SECTION.    **Sec. 120.**    COMPENSATION OF GUARDIAN OR CONSERVATOR.

23        (1) Subject to court approval, a guardian is entitled to reasonable  
24 compensation for services as guardian and to reimbursement for room,  
25 board, clothing, and other appropriate expenses advanced for the  
26 benefit of the individual subject to guardianship. If a conservator,  
27 other than the guardian or a person affiliated with the guardian, is  
28 appointed for the individual, reasonable compensation and  
29 reimbursement to the guardian may be approved and paid by the  
30 conservator without court approval.

31        (2) Subject to court approval, a conservator is entitled to  
32 reasonable compensation for services and reimbursement for  
33 appropriate expenses from the property of the individual subject to  
34 conservatorship.

35        (3) In determining reasonable compensation for a guardian or  
36 conservator, the court, or a conservator in determining reasonable  
37 compensation for a guardian as provided in subsection (1) of this  
38 section, shall consider:

- 1 (a) The necessity and quality of the services provided;
- 2 (b) The experience, training, professional standing, and skills  
3 of the guardian or conservator;
- 4 (c) The difficulty of the services performed, including the  
5 degree of skill and care required;
- 6 (d) The conditions and circumstances under which a service was  
7 performed, including whether the service was provided outside regular  
8 business hours or under dangerous or extraordinary conditions;
- 9 (e) The effect of the services on the individual subject to  
10 guardianship or conservatorship;
- 11 (f) The extent to which the services provided were or were not  
12 consistent with the guardian's plan under section 316 of this act or  
13 conservator's plan under section 419 of this act; and
- 14 (g) The fees customarily paid to a person that performs a like  
15 service in the community.

16 (4) A guardian or conservator need not use personal funds of the  
17 guardian or conservator for the expenses of the individual subject to  
18 guardianship or conservatorship.

19 (5) If an individual subject to guardianship or conservatorship  
20 seeks to modify or terminate the guardianship or conservatorship or  
21 remove the guardian or conservator, the court may order compensation  
22 to the guardian or conservator for time spent opposing modification,  
23 termination, or removal only to the extent the court determines the  
24 opposition was reasonably necessary to protect the interests of the  
25 individual subject to guardianship or conservatorship.

26 NEW SECTION. **Sec. 121.** LIABILITY OF GUARDIAN OR CONSERVATOR FOR  
27 ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. A  
28 guardian or conservator is not personally liable to another person  
29 solely because of the guardianship or conservatorship for an act or  
30 omission of the individual subject to guardianship or  
31 conservatorship.

32 NEW SECTION. **Sec. 122.** PETITION AFTER APPOINTMENT FOR  
33 INSTRUCTION OR RATIFICATION. (1) A guardian or conservator may  
34 petition the court for instruction concerning fiduciary  
35 responsibility or ratification of a particular act related to the  
36 guardianship or conservatorship.

1 (2) On notice and hearing on a petition under subsection (1) of  
2 this section, the court may give an instruction and issue an  
3 appropriate order.

4 NEW SECTION. **Sec. 123.** THIRD-PARTY ACCEPTANCE OF AUTHORITY OF  
5 GUARDIAN OR CONSERVATOR. (1) A person must not recognize the  
6 authority of a guardian or conservator to act on behalf of an  
7 individual subject to guardianship or conservatorship if:

8 (a) The person has actual knowledge or a reasonable belief that  
9 the letters of office of the guardian or conservator are invalid or  
10 the conservator or guardian is exceeding or improperly exercising  
11 authority granted by the court; or

12 (b) The person has actual knowledge that the individual subject  
13 to guardianship or conservatorship is subject to physical or  
14 financial abuse, neglect, exploitation, or abandonment by the  
15 guardian or conservator or a person acting for or with the guardian  
16 or conservator.

17 (2) A person may refuse to recognize the authority of a guardian  
18 or conservator to act on behalf of an individual subject to  
19 guardianship or conservatorship if:

20 (a) The guardian's or conservator's proposed action would be  
21 inconsistent with this chapter; or

22 (b) The person makes, or has actual knowledge that another person  
23 has made, a report to the department of children, youth, and families  
24 or the department of social and health services stating a good-faith  
25 belief that the individual subject to guardianship or conservatorship  
26 is subject to physical or financial abuse, neglect, exploitation, or  
27 abandonment by the guardian or conservator or a person acting for or  
28 with the guardian or conservator.

29 (3) A person that refuses to accept the authority of a guardian  
30 or conservator in accordance with subsection (2) of this section may  
31 report the refusal and the reason for refusal to the court. The court  
32 on receiving the report shall consider whether removal of the  
33 guardian or conservator or other action is appropriate.

34 (4) A guardian or conservator may petition the court to require a  
35 third party to accept a decision made by the guardian or conservator  
36 on behalf of the individual subject to guardianship or  
37 conservatorship.

1           NEW SECTION.   **Sec. 124.**   USE OF AGENT BY GUARDIAN OR CONSERVATOR.

2   (1) Except as otherwise provided in subsection (3) of this section, a  
3 guardian or conservator may delegate a power to an agent which a  
4 prudent guardian or conservator of comparable skills could delegate  
5 prudently under the circumstances if the delegation is consistent  
6 with the guardian's or conservator's fiduciary duties and the  
7 guardian's plan under section 316 of this act or the conservator's  
8 plan under section 419 of this act.

9       (2) In delegating a power under subsection (1) of this section,  
10 the guardian or conservator shall exercise reasonable care, skill,  
11 and caution in:

12       (a) Selecting the agent;

13       (b) Establishing the scope and terms of the agent's work in  
14 accordance with the guardian's plan under section 316 of this act or  
15 the conservator's plan under section 419 of this act;

16       (c) Monitoring the agent's performance and compliance with the  
17 delegation; and

18       (d) Redressing an act or omission of the agent which would  
19 constitute a breach of the guardian's or conservator's duties if done  
20 by the guardian or conservator.

21       (3) A guardian or conservator may not delegate all powers to an  
22 agent.

23       (4) In performing a power delegated under this section, an agent  
24 shall:

25       (a) Exercise reasonable care to comply with the terms of the  
26 delegation and use reasonable care in the performance of the power;  
27 and

28       (b) If the guardian or conservator has delegated to the agent the  
29 power to make a decision on behalf of the individual subject to  
30 guardianship or conservatorship, use the same decision-making  
31 standard the guardian or conservator would be required to use.

32       (5) By accepting a delegation of a power under subsection (1) of  
33 this section from a guardian or conservator, an agent submits to the  
34 personal jurisdiction of the courts of this state in an action  
35 involving the agent's performance as agent.

36       (6) A guardian or conservator that delegates and monitors a power  
37 in compliance with this section is not liable for the decision, act,  
38 or omission of the agent.

1        NEW SECTION.        **Sec. 125.**        TEMPORARY SUBSTITUTE GUARDIAN OR  
2 CONSERVATOR. (1) The court may appoint a temporary substitute  
3 guardian for an individual subject to guardianship for a period not  
4 exceeding six months if:

5        (a) A proceeding to remove a guardian for the individual is  
6 pending; or

7        (b) The court finds a guardian is not effectively performing the  
8 guardian's duties and the welfare of the individual requires  
9 immediate action.

10       (2) The court may appoint a temporary substitute conservator for  
11 an individual subject to conservatorship for a period not exceeding  
12 six months if:

13       (a) A proceeding to remove a conservator for the individual is  
14 pending; or

15       (b) The court finds that a conservator for the individual is not  
16 effectively performing the conservator's duties and the welfare of  
17 the individual or the conservatorship estate requires immediate  
18 action.

19       (3) Except as otherwise ordered by the court, a temporary  
20 substitute guardian or temporary substitute conservator appointed  
21 under this section has the powers stated in the order of appointment  
22 of the guardian or conservator. The authority of the existing  
23 guardian or conservator is suspended for as long as the temporary  
24 substitute guardian or conservator has authority.

25       (4) The court shall give notice of appointment of a temporary  
26 substitute guardian or temporary substitute conservator, not later  
27 than five days after the appointment, to:

28       (a) The individual subject to guardianship or conservatorship;

29       (b) The affected guardian or conservator; and

30       (c) In the case of a minor, each parent of the minor and any  
31 person currently having care or custody of the minor.

32       (5) The court may remove a temporary substitute guardian or  
33 temporary substitute conservator at any time. The temporary  
34 substitute guardian or temporary substitute conservator shall make  
35 any report the court requires.

36       NEW SECTION.        **Sec. 126.**        REGISTRATION OF ORDER—EFFECT. (1) If a  
37 guardian has been appointed in another state for an individual, and a  
38 petition for guardianship for the individual is not pending in this  
39 state, the guardian appointed in the other state, after giving notice



1 to the appointing court, may register the guardianship order in this  
2 state by filing as a foreign judgment, in a court of an appropriate  
3 county of this state, certified copies of the order and letters of  
4 office.

5 (2) If a conservator has been appointed in another state for an  
6 individual, and a petition for conservatorship for the individual is  
7 not pending in this state, the conservator appointed for the  
8 individual in the other state, after giving notice to the appointing  
9 court, may register the conservatorship in this state by filing as a  
10 foreign judgment, in a court of a county in which property belonging  
11 to the individual subject to conservatorship is located, certified  
12 copies of the order of conservatorship, letters of office, and any  
13 bond or other asset protection arrangement required by the court.

14 (3) On registration under this section of a guardianship or  
15 conservatorship order from another state, the guardian or conservator  
16 may exercise in this state all powers authorized in the order except  
17 as prohibited by this chapter and law of this state other than this  
18 chapter. If the guardian or conservator is not a resident of this  
19 state, the guardian or conservator may maintain an action or  
20 proceeding in this state subject to any condition imposed by this  
21 state on an action or proceeding by a nonresident party.

22 (4) The court may grant any relief available under this chapter  
23 and law of this state other than this chapter to enforce an order  
24 registered under this section.

25 NEW SECTION. **Sec. 127.** GRIEVANCE AGAINST GUARDIAN OR  
26 CONSERVATOR. (1) An individual who is subject to guardianship or  
27 conservatorship, or person interested in the welfare of an individual  
28 subject to guardianship or conservatorship, that reasonably believes  
29 the guardian or conservator is breaching the guardian's or  
30 conservator's fiduciary duty or otherwise acting in a manner  
31 inconsistent with this chapter may file a grievance in a record with  
32 the court.

33 (2) Subject to subsection (3) of this section, after receiving a  
34 grievance under subsection (1) of this section, the court:

35 (a) Shall review the grievance and, if necessary to determine the  
36 appropriate response, court records related to the guardianship or  
37 conservatorship;

1 (b) Shall schedule a hearing if the individual subject to  
2 guardianship or conservatorship is an adult and the grievance  
3 supports a reasonable belief that:

4 (i) Removal of the guardian and appointment of a successor may be  
5 appropriate under section 318 of this act;

6 (ii) Termination or modification of the guardianship may be  
7 appropriate under section 319 of this act;

8 (iii) Removal of the conservator and appointment of a successor  
9 may be appropriate under section 430 of this act; or

10 (iv) Termination or modification of the conservatorship may be  
11 appropriate under section 431 of this act; and

12 (c) May take any action supported by the evidence, including:

13 (i) Ordering the guardian or conservator to provide the court a  
14 report, accounting, inventory, updated plan, or other information;

15 (ii) Appointing a guardian ad litem;

16 (iii) Appointing an attorney for the individual subject to  
17 guardianship or conservatorship; or

18 (iv) Holding a hearing.

19 (3) The court may decline to act under subsection (2) of this  
20 section if a similar grievance was filed within the six months  
21 preceding the filing of the current grievance and the court followed  
22 the procedures of subsection (2) of this section in considering the  
23 earlier grievance.

24 NEW SECTION. **Sec. 128.** DELEGATION BY PARENT. Except as  
25 otherwise provided in RCW 11.125.410, a parent of a minor, by a power  
26 of attorney, may delegate to another person for a period not  
27 exceeding nine months any of the parent's powers regarding care,  
28 custody, or property of the minor, other than power to consent to  
29 marriage or adoption.

30 **ARTICLE 2**  
31 **GUARDIANSHIP OF MINOR**

32 NEW SECTION. **Sec. 201.** BASIS FOR APPOINTMENT OF GUARDIAN FOR  
33 MINOR. (1) A person becomes a guardian for a minor only on  
34 appointment by the court.

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

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

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

4 (c) There is clear and convincing evidence that no parent of the  
5 minor is willing or able to exercise the powers the court is granting  
6 the guardian.

7 NEW SECTION. **Sec. 202.** PETITION FOR APPOINTMENT OF GUARDIAN FOR  
8 MINOR. (1) A person interested in the welfare of a minor, including  
9 the minor, may petition for appointment of a guardian for the minor.

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

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

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

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

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

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

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

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

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

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

1 (j) Whether any other proceeding concerning the care or custody  
2 of the minor is pending in any court in this state or another  
3 jurisdiction.

4 NEW SECTION. **Sec. 203.** NOTICE OF HEARING FOR APPOINTMENT OF  
5 GUARDIAN FOR MINOR. (1) If a petition is filed under section 202 of  
6 this act, the court shall schedule a hearing and the petitioner  
7 shall:

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

11 (i) The minor, if the minor will be twelve years of age or older  
12 at the time of the hearing;

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

15 (iii) Any adult with whom the minor resides;

16 (iv) Each person that had primary care or custody of the minor  
17 for at least sixty days during the two years immediately before the  
18 filing of the petition or for at least seven hundred thirty days  
19 during the five years immediately before the filing of the petition;  
20 and

21 (v) Any other person the court determines should receive personal  
22 service of notice; and

23 (b) Give notice under section 113 of this act of the date, time,  
24 and place of the hearing, together with a copy of the petition, to:

25 (i) Any person nominated as guardian by the minor, if the minor  
26 is twelve years of age or older;

27 (ii) Any nominee of a parent;

28 (iii) Each grandparent and adult sibling of the minor;

29 (iv) Any guardian or conservator acting for the minor in any  
30 jurisdiction; and

31 (v) Any other person the court determines.

32 (2) Notice required by subsection (1) of this section must  
33 include a statement of the right to request appointment of an  
34 attorney for the minor or object to appointment of a guardian and a  
35 description of the nature, purpose, and consequences of appointment  
36 of a guardian.

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

1 (a) The minor, if the minor is twelve years of age or older; and  
2 (b) Each parent of the minor, unless the court finds by clear and  
3 convincing evidence that the parent cannot with due diligence be  
4 located and served or the parent waived, in a record, the right to  
5 notice.

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

10 (a) Interview the petitioner and the minor;

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

14 (c) Investigate any other matter relating to the petition the  
15 court directs.

16 NEW SECTION. Sec. 204. ATTORNEY FOR MINOR OR PARENT. (1) The  
17 court shall appoint an attorney to represent a minor who is the  
18 subject of a proceeding under section 202 of this act if:

19 (a) Requested by the minor and the minor is twelve years of age  
20 or older;

21 (b) Recommended by a guardian ad litem; or

22 (c) The court determines the minor needs representation.

23 (2) An attorney appointed under subsection (1) of this section  
24 shall:

25 (a) Make a reasonable effort to ascertain the minor's wishes;

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

28 (c) If the minor's wishes are not reasonably ascertainable,  
29 advocate for the minor's best interest.

30 (3) A minor who is the subject of a proceeding under section 202  
31 of this act may retain an attorney to represent the minor in the  
32 proceeding.

33 (4) A parent of a minor who is the subject of a proceeding under  
34 section 202 of this act may retain an attorney to represent the  
35 parent in the proceeding.

36 (5) The court shall appoint an attorney to represent a parent of  
37 a minor who is the subject of a proceeding under section 202 of this  
38 act if:

- 1 (a) The parent objects to appointment of a guardian for the  
2 minor;
- 3 (b) The court determines that counsel is needed to ensure that  
4 consent to appointment of a guardian is informed; or
- 5 (c) The court otherwise determines the parent needs  
6 representation.

7 NEW SECTION. **Sec. 205.** ATTENDANCE AND PARTICIPATION AT HEARING  
8 FOR APPOINTMENT OF GUARDIAN FOR MINOR. (1) The court shall require a  
9 minor who is the subject of a hearing under section 203 of this act  
10 to attend the hearing and allow the minor to participate in the  
11 hearing unless the court determines, by clear and convincing evidence  
12 presented at the hearing or a separate hearing, that:

13 (a) The minor consistently and repeatedly refused to attend the  
14 hearing after being fully informed of the right to attend and, if the  
15 minor is twelve years of age or older, the potential consequences of  
16 failing to do so;

17 (b) There is no practicable way for the minor to attend the  
18 hearing;

19 (c) The minor lacks the ability or maturity to participate  
20 meaningfully in the hearing; or

21 (d) Attendance would be harmful to the minor.

22 (2) Unless excused by the court for good cause, the person  
23 proposed to be appointed as guardian for a minor shall attend a  
24 hearing under section 203 of this act.

25 (3) Each parent of a minor who is the subject of a hearing under  
26 section 203 of this act has the right to attend the hearing.

27 (4) A person may request permission to participate in a hearing  
28 under section 203 of this act. The court may grant the request, with  
29 or without hearing, on determining that it is in the best interest of  
30 the minor who is the subject of the hearing. The court may impose  
31 appropriate conditions on the person's participation.

32 NEW SECTION. **Sec. 206.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE  
33 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section  
34 203 of this act, the court may appoint a guardian for a minor, if  
35 appointment is proper under section 201 of this act, dismiss the  
36 proceeding, or take other appropriate action consistent with this  
37 chapter or law of this state other than this chapter.

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

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

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

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

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

25 (4) The court, as part of an order appointing a guardian for a  
26 minor, shall state rights retained by any parent of the minor, which  
27 may include contact or visitation with the minor, decision making  
28 regarding the minor's health care, education, or other matter, or  
29 access to a record regarding the minor.

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

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

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

36 (c) The court has removed the guardian.

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

1        NEW SECTION.        **Sec. 207.**        STANDBY GUARDIAN FOR MINOR. (1) A

2 standby guardian appointed under this section may act as guardian,  
3 with all duties and powers of a guardian under sections 209 and 210  
4 of this act, when no parent of the minor is willing or able to  
5 exercise the duties and powers granted to the guardian.

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

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

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

15        (b) Finding that no parent of the minor likely will be able or  
16 willing to care for or make decisions with respect to the minor not  
17 later than two years after the appointment.

18        (4) A petition under subsection (3)(a) of this section must  
19 include the same information required under section 202 of this act  
20 for the appointment of a guardian for a minor.

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

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

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

26        (ii) Each parent of the minor;

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

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

29        (b) Include with the copy of the petition served under (a) of  
30 this subsection a statement of the right to request appointment of an  
31 attorney for the minor or to object to appointment of the standby  
32 guardian, and a description of the nature, purpose, and consequences  
33 of appointment of a standby guardian.

34        (6) A person entitled to notice under subsection (5) of this  
35 section, not later than sixty days after service of the petition and  
36 statement, may object to appointment of the standby guardian by  
37 filing an objection with the court and giving notice of the objection  
38 to each other person entitled to notice under subsection (5) of this  
39 section.



1 (7) If an objection is filed under subsection (6) of this  
2 section, the court shall hold a hearing to determine whether a  
3 standby guardian should be appointed and, if so, the person that  
4 should be appointed. If no objection is filed, the court may make the  
5 appointment.

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

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

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

13 (9) If a petitioner is unable to serve notice under subsection  
14 (5) of this section on a parent of the minor or alleges that a parent  
15 of the minor waived the right to notice under this section, the court  
16 shall appoint a visitor who shall:

17 (a) Interview the petitioner and the minor;

18 (b) If the petitioner alleges the parent cannot be located and  
19 served, ascertain whether the parent cannot be located with due  
20 diligence; and

21 (c) Investigate any other matter relating to the petition the  
22 court directs.

23 (10) If the court finds under subsection (3) of this section that  
24 a standby guardian should be appointed, the following rules apply:

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

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

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

36 (a) The standby guardian assumes the duties and powers of the  
37 guardian;

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

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

40 (d) The court removes the guardian.

1 (12) Before assuming the duties and powers of a guardian, a  
2 standby guardian must file with the court an acceptance of  
3 appointment as guardian and give notice of the acceptance to:

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

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

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

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

17 NEW SECTION. **Sec. 208.** EMERGENCY GUARDIAN FOR MINOR. (1) On its  
18 own, or on petition by a person interested in a minor's welfare, the  
19 court may appoint an emergency guardian for the minor if the court  
20 finds:

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

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

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

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

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

36 (b) Any attorney appointed under section 204 of this act;

37 (c) Each parent of the minor;

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

1 (e) Any other person the court determines.

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

13 (5) Appointment of an emergency guardian under this section, with  
14 or without notice, is not a determination that a basis exists for  
15 appointment of a guardian under section 201 of this act.

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

19 NEW SECTION. **Sec. 209.** DUTIES OF GUARDIAN FOR MINOR. (1) A  
20 guardian for a minor is a fiduciary. Except as otherwise limited by  
21 the court, a guardian for a minor has the duties and responsibilities  
22 of a parent regarding the minor's support, care, education, health,  
23 safety, and welfare. A guardian shall act in the minor's best  
24 interest and exercise reasonable care, diligence, and prudence.

25 (2) A guardian for a minor shall:

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

29 (b) Take reasonable care of the minor's personal effects and  
30 bring a proceeding for a conservatorship or protective arrangement  
31 instead of conservatorship if necessary to protect other property of  
32 the minor;

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

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

1 (e) Report the condition of the minor and account for funds and  
2 other property of the minor in the guardian's possession or subject  
3 to the guardian's control, as required by court rule or ordered by  
4 the court on application of a person interested in the minor's  
5 welfare;

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

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

11 NEW SECTION. **Sec. 210.** POWERS OF GUARDIAN FOR MINOR. (1) Except  
12 as otherwise limited by court order, a guardian of a minor has the  
13 powers a parent otherwise would have regarding the minor's support,  
14 care, education, health, safety, and welfare.

15 (2) Except as otherwise limited by court order, a guardian for a  
16 minor may:

17 (a) Apply for and receive funds and benefits otherwise payable  
18 for the support of the minor to the minor's parent, guardian, or  
19 custodian under a statutory system of benefits or insurance or any  
20 private contract, devise, trust, conservatorship, or custodianship;

21 (b) Unless inconsistent with a court order entitled to  
22 recognition in this state, take custody of the minor and establish  
23 the minor's place of dwelling and, on authorization of the court,  
24 establish or move the minor's dwelling outside this state;

25 (c) If the minor is not subject to conservatorship, commence a  
26 proceeding, including an administrative proceeding, or take other  
27 appropriate action to compel a person to support the minor or make a  
28 payment for the benefit of the minor;

29 (d) Consent to health or other care, treatment, or service for  
30 the minor; or

31 (e) To the extent reasonable, delegate to the minor  
32 responsibility for a decision affecting the minor's well-being.

33 (3) The court may authorize a guardian for a minor to consent to  
34 the adoption of the minor if the minor does not have a parent.

35 NEW SECTION. **Sec. 211.** REMOVAL OF GUARDIAN FOR MINOR—  
36 TERMINATION OF GUARDIANSHIP—APPOINTMENT OF SUCCESSOR. (1)  
37 Guardianship under this chapter for a minor terminates:

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

3 (b) When the court finds that the standard in section 201 of this  
4 act for appointment of a guardian is not satisfied, unless the court  
5 finds that:

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

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

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

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

20 (4) The court shall follow the priorities in section 206(2) of  
21 this act when selecting a successor guardian for a minor.

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

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

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

34 **ARTICLE 3**

35 **GUARDIANSHIP OF ADULT**

36 NEW SECTION. **Sec. 301.** BASIS FOR APPOINTMENT OF GUARDIAN FOR  
37 ADULT. (1) On petition and after notice and hearing, the court may:

1 (a) Appoint a guardian for an adult if the court finds by clear  
2 and convincing evidence that:

3 (i) The respondent lacks the ability to meet essential  
4 requirements for physical health, safety, or self-care because the  
5 respondent is unable to receive and evaluate information or make or  
6 communicate decisions, even with appropriate supportive services,  
7 technological assistance, or supported decision making; and

8 (ii) The respondent's identified needs cannot be met by a  
9 protective arrangement instead of guardianship or other less  
10 restrictive alternative; or

11 (b) With appropriate findings, treat the petition as one for a  
12 conservatorship under article 4 of this chapter or protective  
13 arrangement under article 5 of this chapter, issue any appropriate  
14 order, or dismiss the proceeding.

15 (2) The court shall grant a guardian appointed under subsection  
16 (1) of this section only those powers necessitated by the  
17 demonstrated needs and limitations of the respondent and issue orders  
18 that will encourage development of the respondent's maximum self-  
19 determination and independence. The court may not establish a full  
20 guardianship if a limited guardianship, protective arrangement  
21 instead of guardianship, or other less restrictive alternative would  
22 meet the needs of the respondent.

23 NEW SECTION. **Sec. 302.** PETITION FOR APPOINTMENT OF GUARDIAN FOR  
24 ADULT. (1) A person interested in an adult's welfare, including the  
25 adult for whom the order is sought, may petition for appointment of a  
26 guardian for the adult.

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

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

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

37 (i) Spouse or domestic partner or, if the respondent has none, an  
38 adult with whom the respondent has shared household responsibilities

1 for more than six months in the twelve-month period immediately  
2 before the filing of the petition;

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

6 (iii) Adult stepchildren whom the respondent actively parented  
7 during the stepchildren's minor years and with whom the respondent  
8 had an ongoing relationship in the two-year period immediately before  
9 the filing of the petition;

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

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

13 (ii) Any attorney currently representing the respondent;

14 (iii) Any representative payee appointed by the social security  
15 administration for the respondent;

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

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

20 (vi) Any fiduciary for the respondent appointed by the department  
21 of veterans affairs;

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

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

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

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

29 (xi) A proposed guardian and the reason the proposed guardian  
30 should be selected; and

31 (xii) A person known to have routinely assisted the respondent  
32 with decision making during the six months immediately before the  
33 filing of the petition;

34 (d) The reason a guardianship is necessary, including a brief  
35 description of:

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

37 (ii) Any protective arrangement instead of guardianship or other  
38 less restrictive alternatives for meeting the respondent's alleged  
39 need which have been considered or implemented;

1 (iii) If no protective arrangement instead of guardianship or  
2 other less restrictive alternatives have been considered or  
3 implemented, the reason they have not been considered or implemented;  
4 and

5 (iv) The reason a protective arrangement instead of guardianship  
6 or other less restrictive alternative is insufficient to meet the  
7 respondent's alleged need;

8 (e) Whether the petitioner seeks a limited guardianship or full  
9 guardianship;

10 (f) If the petitioner seeks a full guardianship, the reason a  
11 limited guardianship or protective arrangement instead of  
12 guardianship is not appropriate;

13 (g) If a limited guardianship is requested, the powers to be  
14 granted to the guardian;

15 (h) The name and current address, if known, of any person with  
16 whom the petitioner seeks to limit the respondent's contact;

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

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

24 NEW SECTION. **Sec. 303.** NOTICE OF HEARING FOR APPOINTMENT OF  
25 GUARDIAN FOR ADULT. (1) On filing of a petition under section 302 of  
26 this act for appointment of a guardian for an adult, the court shall  
27 set a date, time, and place for hearing the petition.

28 (2) A copy of a petition under section 302 of this act and notice  
29 of a hearing on the petition must be served personally on the  
30 respondent. The notice must inform the respondent of the respondent's  
31 rights at the hearing, including the right to an attorney and to  
32 attend the hearing. The notice must include a description of the  
33 nature, purpose, and consequences of granting the petition. The court  
34 may not grant the petition if notice substantially complying with  
35 this subsection is not served on the respondent.

36 (3) In a proceeding on a petition under section 302 of this act,  
37 the notice required under subsection (2) of this section must be  
38 given to the persons required to be listed in the petition under  
39 section 302(2) (a) through (c) of this act and any other person



1 interested in the respondent's welfare the court determines. Failure  
2 to give notice under this subsection does not preclude the court from  
3 appointing a guardian.

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

- 7 (a) The adult subject to guardianship;
- 8 (b) The guardian; and
- 9 (c) Any other person the court determines.

10 NEW SECTION. Sec. 304. APPOINTMENT AND ROLE OF VISITOR. (1) On  
11 receipt of a petition under section 302 of this act for appointment  
12 of a guardian for an adult, the court shall appoint a visitor. The  
13 visitor must be an individual with training or experience in the type  
14 of abilities, limitations, and needs alleged in the petition.

15 (2) A visitor appointed under subsection (1) of this section  
16 shall interview the respondent in person and, in a manner the  
17 respondent is best able to understand:

18 (a) Explain to the respondent the substance of the petition, the  
19 nature, purpose, and effect of the proceeding, the respondent's  
20 rights at the hearing on the petition, and the general powers and  
21 duties of a guardian;

22 (b) Determine the respondent's views about the appointment sought  
23 by the petitioner, including views about a proposed guardian, the  
24 guardian's proposed powers and duties, and the scope and duration of  
25 the proposed guardianship;

26 (c) Inform the respondent of the respondent's right to employ and  
27 consult with an attorney at the respondent's expense and the right to  
28 request a court-appointed attorney; and

29 (d) Inform the respondent that all costs and expenses of the  
30 proceeding, including the respondent's attorney's fees, may be paid  
31 from the respondent's assets.

32 (3) The visitor appointed under subsection (1) of this section  
33 shall:

34 (a) Interview the petitioner and proposed guardian, if any;

35 (b) Visit the respondent's present dwelling and any dwelling in  
36 which it is reasonably believed the respondent will live if the  
37 appointment is made;

1 (c) Obtain information from any physician or other person known  
2 to have treated, advised, or assessed the respondent's relevant  
3 physical or mental condition; and

4 (d) Investigate the allegations in the petition and any other  
5 matter relating to the petition the court directs.

6 (4) A visitor appointed under subsection (1) of this section  
7 promptly shall file a report in a record with the court, which must  
8 include:

9 (a) A recommendation whether an attorney should be appointed to  
10 represent the respondent;

11 (b) A summary of self-care and independent living tasks the  
12 respondent can manage without assistance or with existing supports,  
13 could manage with the assistance of appropriate supportive services,  
14 technological assistance, or supported decision making, and cannot  
15 manage;

16 (c) A recommendation regarding the appropriateness of  
17 guardianship, including whether a protective arrangement instead of  
18 guardianship or other less restrictive alternative for meeting the  
19 respondent's needs is available and:

20 (i) If a guardianship is recommended, whether it should be full  
21 or limited; and

22 (ii) If a limited guardianship is recommended, the powers to be  
23 granted to the guardian;

24 (d) A statement of the qualifications of the proposed guardian  
25 and whether the respondent approves or disapproves of the proposed  
26 guardian;

27 (e) A statement whether the proposed dwelling meets the  
28 respondent's needs and whether the respondent has expressed a  
29 preference as to residence;

30 (f) A recommendation whether a professional evaluation under  
31 section 306 of this act is necessary;

32 (g) A statement whether the respondent is able to attend a  
33 hearing at the location court proceedings typically are held;

34 (h) A statement whether the respondent is able to participate in  
35 a hearing and which identifies any technology or other form of  
36 support that would enhance the respondent's ability to participate;  
37 and

38 (i) Any other matter the court directs.

1        NEW SECTION.    **Sec. 305.**    APPOINTMENT AND ROLE OF ATTORNEY FOR  
2 ADULT. (1) Unless the respondent in a proceeding for appointment of a  
3 guardian for an adult is represented by an attorney, the court shall  
4 appoint an attorney to represent the respondent, regardless of the  
5 respondent's ability to pay.

6        (2) An attorney representing the respondent in a proceeding for  
7 appointment of a guardian for an adult 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 in type,  
13 duration, and scope, consistent with the respondent's interests.

14        NEW SECTION.    **Sec. 306.**    PROFESSIONAL EVALUATION. (1) At or  
15 before a hearing on a petition for a guardianship for an adult, the  
16 court shall order a professional evaluation of the respondent:

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

18        (b) In other cases, unless the court finds that it has sufficient  
19 information to determine the respondent's needs and abilities without  
20 the evaluation.

21        (2) If the court orders an evaluation under subsection (1) of  
22 this section, the respondent must be examined by a licensed  
23 physician, psychologist, social worker, or other individual appointed  
24 by the court who is qualified to evaluate the respondent's alleged  
25 cognitive and functional abilities and limitations and will not be  
26 advantaged or disadvantaged by a decision to grant the petition or  
27 otherwise have a conflict of interest. The individual conducting the  
28 evaluation promptly shall file report in a record with the court.  
29 Unless otherwise directed by the court, the report must contain:

30        (a) A description of the nature, type, and extent of the  
31 respondent's cognitive and functional abilities and limitations;

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

35        (c) A prognosis for improvement and recommendation for the  
36 appropriate treatment, support, or habilitation plan; and

37        (d) The date of the examination on which the report is based.

38        (3) The respondent may decline to participate in an evaluation  
39 ordered under subsection (1) of this section.

1        NEW SECTION.    **Sec. 307.**    ATTENDANCE AND RIGHTS AT HEARING. (1)

2 Except as otherwise provided in subsection (2) of this section, a  
3 hearing under section 303 of this act may not proceed unless the  
4 respondent attends the hearing. If it is not reasonably feasible for  
5 the respondent to attend a hearing at the location court proceedings  
6 typically are held, the court shall make reasonable efforts to hold  
7 the hearing at an alternative location convenient to the respondent  
8 or allow the respondent to attend the hearing using real-time audio-  
9 visual technology.

10        (2) A hearing under section 303 of this act may proceed without  
11 the respondent in attendance if the court finds by clear and  
12 convincing evidence that:

13        (a) The respondent consistently and repeatedly has refused to  
14 attend the hearing after having been fully informed of the right to  
15 attend and the potential consequences of failing to do so; or

16        (b) There is no practicable way for the respondent to attend and  
17 participate in the hearing even with appropriate supportive services  
18 and technological assistance.

19        (3) The respondent may be assisted in a hearing under section 303  
20 of this act by a person or persons of the respondent's choosing,  
21 assistive technology, or an interpreter or translator, or a  
22 combination of these supports. If assistance would facilitate the  
23 respondent's participation in the hearing, but is not otherwise  
24 available to the respondent, the court shall make reasonable efforts  
25 to provide it.

26        (4) The respondent has a right to choose an attorney to represent  
27 the respondent at a hearing under section 303 of this act.

28        (5) At a hearing held under section 303 of this act, the  
29 respondent may:

30        (a) Present evidence and subpoena witnesses and documents;

31        (b) Examine witnesses, including any court-appointed evaluator  
32 and the visitor; and

33        (c) Otherwise participate in the hearing.

34        (6) Unless excused by the court for good cause, a proposed  
35 guardian shall attend a hearing under section 303 of this act.

36        (7) A hearing under section 303 of this act must be closed on  
37 request of the respondent and a showing of good cause.

38        (8) Any person may request to participate in a hearing under  
39 section 303 of this act. The court may grant the request, with or  
40 without a hearing, on determining that the best interest of the

1 respondent will be served. The court may impose appropriate  
2 conditions on the person's participation.

3 NEW SECTION. **Sec. 308.** CONFIDENTIALITY OF RECORDS. (1) The  
4 existence of a proceeding for or the existence of a guardianship for  
5 an adult is a matter of public record unless the court seals the  
6 record after:

7 (a) The respondent or individual subject to guardianship requests  
8 the record be sealed; and

9 (b) Either:

10 (i) The petition for guardianship is dismissed; or

11 (ii) The guardianship is terminated.

12 (2) An adult subject to a proceeding for a guardianship, whether  
13 or not a guardian is appointed, an attorney designated by the adult,  
14 and a person entitled to notice under section 310(5) of this act or a  
15 subsequent order are entitled to access court records of the  
16 proceeding and resulting guardianship, including the guardian's plan  
17 under section 316 of this act and report under section 317 of this  
18 act. A person not otherwise entitled to access court records under  
19 this subsection for good cause may petition the court for access to  
20 court records of the guardianship, including the guardian's report  
21 and plan. The court shall grant access if access is in the best  
22 interest of the respondent or adult subject to guardianship or  
23 furthers the public interest and does not endanger the welfare or  
24 financial interests of the adult.

25 (3) A report under section 304 of this act of a visitor or a  
26 professional evaluation under section 306 of this act is confidential  
27 and must be sealed on filing, but is available to:

28 (a) The court;

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

31 (c) The petitioner, visitor, and petitioner's and respondent's  
32 attorneys, for purposes of the proceeding;

33 (d) Unless the court orders otherwise, an agent appointed under a  
34 power of attorney for health care or power of attorney for finances  
35 in which the respondent is the principal; and

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

1        NEW SECTION.    **Sec. 309.**    WHO MAY BE GUARDIAN FOR ADULT—ORDER OF  
2 PRIORITY. (1) Except as otherwise provided in subsection (3) of this  
3 section, the court in appointing a guardian for an adult shall  
4 consider persons qualified to be guardian in the following order of  
5 priority:

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

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

10       (c) An agent appointed by the respondent under a power of  
11 attorney for health care;

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

13       (e) A family member or other individual who has shown special  
14 care and concern for the respondent.

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

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

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

32       (a) The individual is related to the respondent by blood,  
33 marriage, or adoption; or

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

37       (5) An owner, operator, or employee of a long-term care facility  
38 at which the respondent is receiving care may not be appointed as  
39 guardian unless the owner, operator, or employee is related to the  
40 respondent by blood, marriage, or adoption.

1        NEW SECTION.    **Sec. 310.**    ORDER OF APPOINTMENT FOR GUARDIAN. (1) A  
2 court order appointing a guardian for an adult must:

3        (a) Include a specific finding that clear and convincing evidence  
4 established that the identified needs of the respondent cannot be met  
5 by a protective arrangement instead of guardianship or other less  
6 restrictive alternative, including use of appropriate supportive  
7 services, technological assistance, or supported decision making;

8        (b) Include a specific finding that clear and convincing evidence  
9 established the respondent was given proper notice of the hearing on  
10 the petition;

11        (c) State whether the adult subject to guardianship retains the  
12 right to vote and, if the adult does not retain the right to vote,  
13 include findings that support removing that right which must include  
14 a finding that the adult cannot communicate, with or without support,  
15 a specific desire to participate in the voting process; and

16        (d) State whether the adult subject to guardianship retains the  
17 right to marry and, if the adult does not retain the right to marry,  
18 include findings that support removing that right.

19        (2) An adult subject to guardianship retains the right to vote  
20 unless the order under subsection (1) of this section includes the  
21 statement required by subsection (1)(c) of this section. An adult  
22 subject to guardianship retains the right to marry unless the order  
23 under subsection (1) of this section includes the findings required  
24 by subsection (1)(d) of this section.

25        (3) A court order establishing a full guardianship for an adult  
26 must state the basis for granting a full guardianship and include  
27 specific findings that support the conclusion that a limited  
28 guardianship would not meet the functional needs of the adult subject  
29 to guardianship.

30        (4) A court order establishing a limited guardianship for an  
31 adult must state the specific powers granted to the guardian.

32        (5) The court, as part of an order establishing a guardianship  
33 for an adult, shall identify any person that subsequently is entitled  
34 to:

35        (a) Notice of the rights of the adult under section 311(2) of  
36 this act;

37        (b) Notice of a change in the primary dwelling of the adult;

38        (c) Notice that the guardian has delegated:

39        (i) The power to manage the care of the adult;

40        (ii) The power to make decisions about where the adult lives;

- 1 (iii) The power to make major medical decisions on behalf of the  
2 adult;
- 3 (iv) A power that requires court approval under section 315 of  
4 this act; or
- 5 (v) Substantially all powers of the guardian;
- 6 (d) Notice that the guardian will be unavailable to visit the  
7 adult for more than two months or unavailable to perform the  
8 guardian's duties for more than one month;
- 9 (e) A copy of the guardian's plan under section 316 of this act  
10 and the guardian's report under section 317 of this act;
- 11 (f) Access to court records relating to the guardianship;
- 12 (g) Notice of the death or significant change in the condition of  
13 the adult;
- 14 (h) Notice that the court has limited or modified the powers of  
15 the guardian; and
- 16 (i) Notice of the removal of the guardian.
- 17 (6) A spouse, domestic partner, and adult children of an adult  
18 subject to guardianship are entitled to notice under subsection (5)  
19 of this section unless the court determines notice would be contrary  
20 to the preferences or prior directions of the adult subject to  
21 guardianship or not in the best interest of the adult.

22 NEW SECTION. **Sec. 311.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

23 (1) A guardian appointed under section 309 of this act shall give the  
24 adult subject to guardianship and all other persons given notice  
25 under section 303 of this act a copy of the order of appointment,  
26 together with notice of the right to request termination or  
27 modification. The order and notice must be given not later than  
28 fourteen days after the appointment.

29 (2) Not later than thirty days after appointment of a guardian  
30 under section 309 of this act, the court shall give to the adult  
31 subject to guardianship, the guardian, and any other person entitled  
32 to notice under section 310(5) of this act or a subsequent order a  
33 statement of the rights of the adult subject to guardianship and  
34 procedures to seek relief if the adult is denied those rights. The  
35 statement must be in at least sixteen-point font, in plain language,  
36 and, to the extent feasible, in a language in which the adult subject  
37 to guardianship is proficient. The statement must notify the adult  
38 subject to guardianship of the right to:



1 (a) Seek termination or modification of the guardianship, or  
2 removal of the guardian, and choose an attorney to represent the  
3 adult in these matters;

4 (b) Be involved in decisions affecting the adult, including  
5 decisions about the adult's care, dwelling, activities, or social  
6 interactions, to the extent reasonably feasible;

7 (c) Be involved in health care decision making to the extent  
8 reasonably feasible and supported in understanding the risks and  
9 benefits of health care options to the extent reasonably feasible;

10 (d) Be notified at least fourteen days before a change in the  
11 adult's primary dwelling or permanent move to a nursing home, mental  
12 health facility, or other facility that places restrictions on the  
13 individual's ability to leave or have visitors unless the change or  
14 move is proposed in the guardian's plan under section 316 of this act  
15 or authorized by the court by specific order;

16 (e) Object to a change or move described in (d) of this  
17 subsection and the process for objecting;

18 (f) Communicate, visit, or interact with others, including  
19 receiving visitors, and making or receiving telephone calls, personal  
20 mail, or electronic communications, including through social media,  
21 unless:

22 (i) The guardian has been authorized by the court by specific  
23 order to restrict communications, visits, or interactions;

24 (ii) A protective order or protective arrangement instead of  
25 guardianship is in effect that limits contact between the adult and a  
26 person; or

27 (iii) The guardian has good cause to believe restriction is  
28 necessary because interaction with a specified person poses a risk of  
29 significant physical, psychological, or financial harm to the adult,  
30 and the restriction is:

31 (A) For a period of not more than seven business days if the  
32 person has a family or preexisting social relationship with the  
33 adult; or

34 (B) For a period of not more than sixty days if the person does  
35 not have a family or preexisting social relationship with the adult;

36 (g) Receive a copy of the guardian's plan under section 316 of  
37 this act and the guardian's report under section 317 of this act; and

38 (h) Object to the guardian's plan or report.

1        NEW SECTION.    **Sec. 312.**    EMERGENCY GUARDIAN FOR ADULT. (1) On its  
2 own after a petition has been filed under section 302 of this act, or  
3 on petition by a person interested in an adult's welfare, the court  
4 may appoint an emergency guardian for the adult if the court finds:

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

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

9        (c) There is reason to believe that a basis for appointment of a  
10 guardian under section 301 of this act exists.

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

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

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

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

33            (i) The respondent;

34            (ii) The respondent's attorney; and

35            (iii) Any other person the court determines; and

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

38        (5) Appointment of an emergency guardian under this section is  
39 not a determination that a basis exists for appointment of a guardian  
40 under section 301 of this act.

1 (6) The court may remove an emergency guardian appointed under  
2 this section at any time. The emergency guardian shall make any  
3 report the court requires.

4 NEW SECTION. **Sec. 313.** DUTIES OF GUARDIAN FOR ADULT. (1) A  
5 guardian for an adult is a fiduciary. Except as otherwise limited by  
6 the court, a guardian for an adult shall make decisions regarding the  
7 support, care, education, health, and welfare of the adult subject to  
8 guardianship to the extent necessitated by the adult's limitations.

9 (2) A guardian for an adult shall promote the self-determination  
10 of the adult and, to the extent reasonably feasible, encourage the  
11 adult to participate in decisions, act on the adult's own behalf, and  
12 develop or regain the capacity to manage the adult's personal  
13 affairs. In furtherance of this duty, the guardian shall:

14 (a) Become or remain personally acquainted with the adult and  
15 maintain sufficient contact with the adult, including through regular  
16 visitation, to know the adult's abilities, limitations, needs,  
17 opportunities, and physical and mental health;

18 (b) To the extent reasonably feasible, identify the values and  
19 preferences of the adult and involve the adult in decisions affecting  
20 the adult, including decisions about the adult's care, dwelling,  
21 activities, or social interactions; and

22 (c) Make reasonable efforts to identify and facilitate supportive  
23 relationships and services for the adult.

24 (3) A guardian for an adult at all times shall exercise  
25 reasonable care, diligence, and prudence when acting on behalf of or  
26 making decisions for the adult. In furtherance of this duty, the  
27 guardian shall:

28 (a) Take reasonable care of the personal effects, pets, and  
29 service or support animals of the adult and bring a proceeding for a  
30 conservatorship or protective arrangement instead of conservatorship  
31 if necessary to protect the adult's property;

32 (b) Expend funds and other property of the adult received by the  
33 guardian for the adult's current needs for support, care, education,  
34 health, and welfare;

35 (c) Conserve any funds and other property of the adult not  
36 expended under (b) of this subsection for the adult's future needs,  
37 but if a conservator has been appointed for the adult, pay the funds  
38 and other property at least quarterly to the conservator to be  
39 conserved for the adult's future needs; and

1 (d) Monitor the quality of services, including long-term care  
2 services, provided to the adult.

3 (4) In making a decision for an adult subject to guardianship,  
4 the guardian shall make the decision the guardian reasonably believes  
5 the adult would make if the adult were able unless doing so would  
6 unreasonably harm or endanger the welfare or personal or financial  
7 interests of the adult. To determine the decision the adult subject  
8 to guardianship would make if able, the guardian shall consider the  
9 adult's previous or current directions, preferences, opinions,  
10 values, and actions, to the extent actually known or reasonably  
11 ascertainable by the guardian.

12 (5) If a guardian for an adult cannot make a decision under  
13 subsection (4) of this section because the guardian does not know and  
14 cannot reasonably determine the decision the adult probably would  
15 make if able, or the guardian reasonably believes the decision the  
16 adult would make would unreasonably harm or endanger the welfare or  
17 personal or financial interests of the adult, the guardian shall act  
18 in accordance with the best interests of the adult. In determining  
19 the best interests of the adult, the guardian shall consider:

20 (a) Information received from professionals and persons that  
21 demonstrate sufficient interest in the welfare of the adult;

22 (b) Other information the guardian believes the adult would have  
23 considered if the adult were able to act; and

24 (c) Other factors a reasonable person in the circumstances of the  
25 adult would consider, including consequences for others.

26 (6) A guardian for an adult immediately shall notify the court if  
27 the condition of the adult has changed so that the adult is capable  
28 of exercising rights previously removed.

29 NEW SECTION. **Sec. 314.** POWERS OF GUARDIAN FOR ADULT. (1) Except  
30 as limited by court order, a guardian for an adult may:

31 (a) Apply for and receive funds and benefits for the support of  
32 the adult, unless a conservator is appointed for the adult and the  
33 application or receipt is within the powers of the conservator;

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

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

38 (d) If a conservator for the adult has not been appointed,  
39 commence a proceeding, including an administrative proceeding, or

1 take other appropriate action to compel another person to support the  
2 adult or pay funds for the adult's benefit;

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

5 (f) Receive personally identifiable health care information  
6 regarding the adult.

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

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

11 (a) Consent or withhold consent to the marriage of the adult if  
12 the adult's right to marry has been removed under section 310 of this  
13 act;

14 (b) Petition for divorce, dissolution, or annulment of marriage  
15 of the adult or a declaration of invalidity of the adult's marriage;  
16 or

17 (c) Support or oppose a petition for divorce, dissolution, or  
18 annulment of marriage of the adult or a declaration of invalidity of  
19 the adult's marriage.

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

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

28 (a) Select a residential setting the guardian believes the adult  
29 would select if the adult were able, in accordance with the decision-  
30 making standard in section 313 (4) and (5) of this act. If the  
31 guardian does not know and cannot reasonably determine what setting  
32 the adult subject to guardianship probably would choose if able, or  
33 the guardian reasonably believes the decision the adult would make  
34 would unreasonably harm or endanger the welfare or personal or  
35 financial interests of the adult, the guardian shall choose in  
36 accordance with section 313(5) of this act a residential setting that  
37 is consistent with the adult's best interest;

38 (b) In selecting among residential settings, give priority to a  
39 residential setting in a location that will allow the adult to  
40 interact with persons important to the adult and meet the adult's

1 needs in the least restrictive manner reasonably feasible unless to  
2 do so would be inconsistent with the decision-making standard in  
3 section 313 (4) and (5) of this act;

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

6 (i) Give notice of the change to the court, the adult, and any  
7 person identified as entitled to the notice in the court order  
8 appointing the guardian or a subsequent order; and

9 (ii) Include in the notice the address and nature of the new  
10 dwelling and state whether the adult received advance notice of the  
11 change and whether the adult objected to the change;

12 (d) Establish or move the permanent place of dwelling of the  
13 adult to a nursing home, mental health facility, or other facility  
14 that places restrictions on the adult's ability to leave or have  
15 visitors only if:

16 (i) The establishment or move is in the guardian's plan under  
17 section 316 of this act;

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

19 (iii) The guardian gives notice of the establishment or move at  
20 least fourteen days before the establishment or move to the adult and  
21 all persons entitled to notice under section 310(5)(b) of this act or  
22 a subsequent order, and no objection is filed;

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

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

28 (i) The action is specifically included in the guardian's plan  
29 under section 316 of this act;

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

31 (iii) Notice of the action was given at least fourteen days  
32 before the action to the adult and all persons entitled to the notice  
33 under section 310(5)(b) of this act or a subsequent order and no  
34 objection has been filed.

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

37 (a) Involve the adult in decision making to the extent reasonably  
38 feasible, including, when practicable, by encouraging and supporting  
39 the adult in understanding the risks and benefits of health care  
40 options;

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

4 (c) Take into account:

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

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

8 NEW SECTION. **Sec. 315.** SPECIAL LIMITATIONS ON GUARDIAN'S POWER.

9 (1) Unless authorized by the court by specific order, a guardian for  
10 an adult does not have the power to revoke or amend a power of  
11 attorney for health care or power of attorney for finances executed  
12 by the adult. If a power of attorney for health care is in effect,  
13 unless there is a court order to the contrary, a health care decision  
14 of an agent takes precedence over that of the guardian and the  
15 guardian shall cooperate with the agent to the extent feasible. If a  
16 power of attorney for finances is in effect, unless there is a court  
17 order to the contrary, a decision by the agent which the agent is  
18 authorized to make under the power of attorney for finances takes  
19 precedence over that of the guardian and the guardian shall cooperate  
20 with the agent to the extent feasible.

21 (2) A guardian for an adult may not initiate the commitment of  
22 the adult to an evaluation and treatment facility except in  
23 accordance with the state's procedure for involuntary civil  
24 commitment.

25 (3) A guardian for an adult may not restrict the ability of the  
26 adult to communicate, visit, or interact with others, including  
27 receiving visitors and making or receiving telephone calls, personal  
28 mail, or electronic communications, including through social media,  
29 or participating in social activities, unless:

30 (a) Authorized by the court by specific order;

31 (b) A protective order or a protective arrangement instead of  
32 guardianship is in effect that limits contact between the adult and a  
33 person; or

34 (c) The guardian has good cause to believe restriction is  
35 necessary because interaction with a specified person poses a risk of  
36 significant physical, psychological, or financial harm to the adult  
37 and the restriction is:

1 (i) For a period of not more than seven business days if the  
2 person has a family or preexisting social relationship with the  
3 adult; or

4 (ii) For a period of not more than sixty days if the person does  
5 not have a family or preexisting social relationship with the adult.

6 NEW SECTION. **Sec. 316.** GUARDIAN'S PLAN. (1) A guardian for an  
7 adult, not later than sixty days after appointment and when there is  
8 a significant change in circumstances, or the guardian seeks to  
9 deviate significantly from the guardian's plan, shall file with the  
10 court a plan for the care of the adult. The plan must be based on the  
11 needs of the adult and take into account the best interest of the  
12 adult as well as the adult's preferences, values, and prior  
13 directions, to the extent known to or reasonably ascertainable by the  
14 guardian. The guardian shall include in the plan:

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

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

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

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

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

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

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

32 (2) A guardian shall give notice of the filing of the guardian's  
33 plan under subsection (1) of this section, together with a copy of  
34 the plan, to the adult subject to guardianship, a person entitled to  
35 notice under section 310(5) of this act or a subsequent order, and  
36 any other person the court determines. The notice must include a  
37 statement of the right to object to the plan and be given not later  
38 than fourteen days after the filing.



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

4 (4) The court shall review the guardian's plan filed under  
5 subsection (1) of this section and determine whether to approve the  
6 plan or require a new plan. In deciding whether to approve the plan,  
7 the court shall consider an objection under subsection (3) of this  
8 section and whether the plan is consistent with the guardian's duties  
9 and powers under sections 313 and 314 of this act. The court may not  
10 approve the plan until thirty days after its filing.

11 (5) After the guardian's plan filed under this section is  
12 approved by the court, the guardian shall provide a copy of the plan  
13 to the adult subject to guardianship, a person entitled to notice  
14 under section 310(5) of this act or a subsequent order, and any other  
15 person the court determines.

16 NEW SECTION. **Sec. 317.** GUARDIAN'S REPORT—MONITORING OF  
17 GUARDIANSHIP. (1) A guardian for an adult, not later than sixty days  
18 after appointment and at least annually thereafter, shall file with  
19 the court a report in a record regarding the condition of the adult  
20 and accounting for funds and other property in the guardian's  
21 possession or subject to the guardian's control.

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

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

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

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

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

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

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

36 (g) If the adult is living in an evaluation and treatment  
37 facility or living in a facility that provides the adult with health  
38 care or other personal services, whether the guardian considers the  
39 facility's current plan for support, care, treatment, or habilitation

1 consistent with the adult's preferences, values, prior directions,  
2 and best interests;

3 (h) Anything of more than de minimis value which the guardian,  
4 any individual who resides with the guardian, or the spouse, domestic  
5 partner, parent, child, or sibling of the guardian has received from  
6 an individual providing goods or services to the adult;

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

9 (j) Any business relation the guardian has with a person the  
10 guardian has paid or that has benefited from the property of the  
11 adult;

12 (k) A copy of the guardian's most recently approved plan under  
13 section 316 of this act and a statement whether the guardian has  
14 deviated from the plan and, if so, how the guardian has deviated and  
15 why;

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

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

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

21 (3) The court may appoint a visitor to review a report submitted  
22 under this section or a guardian's plan submitted under section 316  
23 of this act, interview the guardian or adult subject to guardianship,  
24 or investigate any other matter involving the guardianship.

25 (4) Notice of the filing under this section of a guardian's  
26 report, together with a copy of the report, must be given to the  
27 adult subject to guardianship, a person entitled to notice under  
28 section 310(5) of this act or a subsequent order, and any other  
29 person the court determines. The notice and report must be given not  
30 later than fourteen days after the filing.

31 (5) The court shall establish procedures for monitoring a report  
32 submitted under this section and review each report at least annually  
33 to determine whether:

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

36 (b) The guardianship should continue; and

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

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

1 (a) Shall notify the adult, the guardian, and any other person  
2 entitled to notice under section 310(5) of this act or a subsequent  
3 order;

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

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

7 (d) Consistent with sections 318 and 319 of this act, may hold a  
8 hearing to consider removal of the guardian, termination of the  
9 guardianship, or a change in the powers granted to the guardian or  
10 terms of the guardianship.

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

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

19 NEW SECTION. **Sec. 318.** REMOVAL OF GUARDIAN FOR ADULT—  
20 APPOINTMENT OF SUCCESSOR. (1) The court may remove a guardian for an  
21 adult for failure to perform the guardian's duties or for other good  
22 cause and appoint a successor guardian to assume the duties of  
23 guardian.

24 (2) The court shall hold a hearing to determine whether to remove  
25 a guardian for an adult and appoint a successor guardian on:

26 (a) Petition of the adult, guardian, or person interested in the  
27 welfare of the adult, which contains allegations that, if true, would  
28 support a reasonable belief that removal of the guardian and  
29 appointment of a successor guardian may be appropriate, but the court  
30 may decline to hold a hearing if a petition based on the same or  
31 substantially similar facts was filed during the preceding six  
32 months;

33 (b) Communication from the adult, guardian, or person interested  
34 in the welfare of the adult which supports a reasonable belief that  
35 removal of the guardian and appointment of a successor guardian may  
36 be appropriate; or

37 (c) Determination by the court that a hearing would be in the  
38 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) An adult subject to guardianship who seeks to remove the  
5 guardian and have a successor guardian appointed has the right to  
6 choose an attorney to represent the adult in this matter. The court  
7 shall award reasonable attorneys' fees to the attorney for the adult  
8 as provided in section 119 of this act.

9 (5) In selecting a successor guardian for an adult, the court  
10 shall follow the priorities under section 309 of this act.

11 (6) Not later than thirty days after appointing a successor  
12 guardian, the court shall give notice of the appointment to the adult  
13 subject to guardianship and any person entitled to notice under  
14 section 310(5) of this act or a subsequent order.

15 NEW SECTION. **Sec. 319.** TERMINATION OR MODIFICATION OF  
16 GUARDIANSHIP FOR ADULT. (1) An adult subject to guardianship, the  
17 guardian for the adult, or a person interested in the welfare of the  
18 adult may petition for:

19 (a) Termination of the guardianship on the ground that a basis  
20 for appointment under section 301 of this act does not exist or  
21 termination would be in the best interest of the adult or for other  
22 good cause; or

23 (b) Modification of the guardianship on the ground that the  
24 extent of protection or assistance granted is not appropriate or for  
25 other good cause.

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

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

35 (b) Communication from the adult, guardian, or person interested  
36 in the welfare of the adult which supports a reasonable belief that  
37 termination or modification of the guardianship may be appropriate,  
38 including because the functional needs of the adult or supports or  
39 services available to the adult have changed;

1 (c) A report from a guardian or conservator which indicates that  
2 termination or modification may be appropriate because the functional  
3 needs of the adult or supports or services available to the adult  
4 have changed or a protective arrangement instead of guardianship or  
5 other less restrictive alternative for meeting the adult's needs is  
6 available; or

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

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

12 (4) On presentation of prima facie evidence for termination of a  
13 guardianship for an adult, the court shall order termination unless  
14 it is proven that a basis for appointment of a guardian under section  
15 301 of this act exists.

16 (5) The court shall modify the powers granted to a guardian for  
17 an adult if the powers are excessive or inadequate due to a change in  
18 the abilities or limitations of the adult, the adult's supports, or  
19 other circumstances.

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

24 (7) An adult subject to guardianship who seeks to terminate or  
25 modify the terms of the guardianship has the right to choose an  
26 attorney to represent the adult in the matter. The court shall award  
27 reasonable attorneys' fees to the attorney for the adult as provided  
28 in section 119 of this act.

29 **ARTICLE 4**  
30 **CONSERVATORSHIP**

31 NEW SECTION. **Sec. 401.** BASIS FOR APPOINTMENT OF CONSERVATOR.

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

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

1 (b) Either:  
2 (i) The minor owns funds or other property requiring management  
3 or protection that otherwise cannot be provided;  
4 (ii) The minor has or may have financial affairs that may be put  
5 at unreasonable risk or hindered because of the minor's age; or  
6 (iii) Appointment is necessary or desirable to obtain or provide  
7 funds or other property needed for the support, care, education,  
8 health, or welfare of the minor.  
9 (2) On petition and after notice and hearing, the court may  
10 appoint a conservator for the property or financial affairs of an  
11 adult if the court finds by clear and convincing evidence that:  
12 (a) The adult is unable to manage property or financial affairs  
13 because:  
14 (i) Of a limitation in the adult's ability to receive and  
15 evaluate information or make or communicate decisions, even with the  
16 use of appropriate supportive services, technological assistance, or  
17 supported decision making; or  
18 (ii) The adult is missing, detained, or unable to return to the  
19 United States;  
20 (b) Appointment is necessary to:  
21 (i) Avoid harm to the adult or significant dissipation of the  
22 property of the adult; or  
23 (ii) Obtain or provide funds or other property needed for the  
24 support, care, education, health, or welfare of the adult or of an  
25 individual entitled to the adult's support; and  
26 (c) The respondent's identified needs cannot be met by a  
27 protective arrangement instead of conservatorship or other less  
28 restrictive alternatives.  
29 (3) The court shall grant a conservator only those powers  
30 necessitated by demonstrated limitations and needs of the respondent  
31 and issue orders that will encourage development of the respondent's  
32 maximum self-determination and independence. The court may not  
33 establish a full conservatorship if a limited conservatorship,  
34 protective arrangement instead of conservatorship, or other less  
35 restrictive alternative would meet the needs of the respondent.

36 NEW SECTION. **Sec. 402.** PETITION FOR APPOINTMENT OF CONSERVATOR.

37 (1) The following may petition for the appointment of a conservator:  
38 (a) The individual for whom the order is sought;

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

5 (c) The guardian for the individual.

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

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

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

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

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

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

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

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

31 (ii) Any attorney currently representing the respondent;

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

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

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

38 (vi) The fiduciary appointed for the respondent by the department  
39 of veterans affairs;

- 1 (vii) An agent designated under a power of attorney for health  
2 care in which the respondent is identified as the principal;
- 3 (viii) An agent designated under a power of attorney for finances  
4 in which the respondent is identified as the principal;
- 5 (ix) A person known to have routinely assisted the respondent  
6 with decision making in the six-month period immediately before the  
7 filing of the petition;
- 8 (x) Any proposed conservator, including a person nominated by the  
9 respondent, if the respondent is twelve years of age or older; and
- 10 (xi) If the individual for whom a conservator is sought is a  
11 minor:
- 12 (A) An adult not otherwise listed with whom the minor resides;  
13 and
- 14 (B) Each person not otherwise listed that had primary care or  
15 custody of the minor for at least sixty days during the two years  
16 immediately before the filing of the petition or for at least seven  
17 hundred thirty days during the five years immediately before the  
18 filing of the petition;
- 19 (d) A general statement of the respondent's property with an  
20 estimate of its value, including any insurance or pension, and the  
21 source and amount of other anticipated income or receipts;
- 22 (e) The reason conservatorship is necessary, including a brief  
23 description of:
- 24 (i) The nature and extent of the respondent's alleged need;
- 25 (ii) If the petition alleges the respondent is missing, detained,  
26 or unable to return to the United States, the relevant circumstances,  
27 including the time and nature of the disappearance or detention and  
28 any search or inquiry concerning the respondent's whereabouts;
- 29 (iii) Any protective arrangement instead of conservatorship or  
30 other less restrictive alternative for meeting the respondent's  
31 alleged need which has been considered or implemented;
- 32 (iv) If no protective arrangement or other less restrictive  
33 alternatives have been considered or implemented, the reason it has  
34 not been considered or implemented; and
- 35 (v) The reason a protective arrangement or other less restrictive  
36 alternative is insufficient to meet the respondent's need;
- 37 (f) Whether the petitioner seeks a limited conservatorship or a  
38 full conservatorship;



1 (g) If the petitioner seeks a full conservatorship, the reason a  
2 limited conservatorship or protective arrangement instead of  
3 conservatorship is not appropriate;

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

6 (i) If the petition is for a limited conservatorship, a  
7 description of the property to be placed under the conservator's  
8 control and any requested limitation on the authority of the  
9 conservator;

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

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

15 NEW SECTION. **Sec. 403.** NOTICE AND HEARING FOR APPOINTMENT OF  
16 CONSERVATOR. (1) On filing of a petition under section 402 of this  
17 act for appointment of a conservator, the court shall set a date,  
18 time, and place for a hearing on the petition.

19 (2) A copy of a petition under section 402 of this act and notice  
20 of a hearing on the petition must be served personally on the  
21 respondent. If the respondent's whereabouts are unknown or personal  
22 service cannot be made, service on the respondent must be made by  
23 publication. The notice must inform the respondent of the  
24 respondent's rights at the hearing, including the right to an  
25 attorney and to attend the hearing. The notice must include a  
26 description of the nature, purpose, and consequences of granting the  
27 petition. The court may not grant a petition for appointment of a  
28 conservator if notice substantially complying with this subsection is  
29 not served on the respondent.

30 (3) In a proceeding on a petition under section 402 of this act,  
31 the notice required under subsection (2) of this section must be  
32 given to the persons required to be listed in the petition under  
33 section 402(2) (a) through (c) of this act and any other person  
34 interested in the respondent's welfare the court determines. Failure  
35 to give notice under this subsection does not preclude the court from  
36 appointing a conservator.

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

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

4 (b) The conservator; and

5 (c) Any other person the court determines.

6 NEW SECTION. **Sec. 404.** ORDER TO PRESERVE OR APPLY PROPERTY  
7 WHILE PROCEEDING PENDING. While a petition under section 402 of this  
8 act is pending, after preliminary hearing and without notice to  
9 others, the court may issue an order to preserve and apply property  
10 of the respondent as required for the support of the respondent or an  
11 individual who is in fact dependent on the respondent. The court may  
12 appoint a commissioner to assist in implementing the order.

13 NEW SECTION. **Sec. 405.** APPOINTMENT AND ROLE OF VISITOR. (1) If  
14 the respondent in a proceeding to appoint a conservator is a minor,  
15 the court may appoint a visitor to investigate a matter related to  
16 the petition or inform the minor or a parent of the minor about the  
17 petition or a related matter.

18 (2) If the respondent in a proceeding to appoint a conservator is  
19 an adult, the court shall appoint a visitor unless the adult is  
20 represented by an attorney appointed by the court. The duties and  
21 reporting requirements of the visitor are limited to the relief  
22 requested in the petition. The visitor must be an individual with  
23 training or experience in the type of abilities, limitations, and  
24 needs alleged in the petition.

25 (3) A visitor appointed under subsection (2) of this section for  
26 an adult shall interview the respondent in person and in a manner the  
27 respondent is best able to understand:

28 (a) Explain to the respondent the substance of the petition, the  
29 nature, purpose, and effect of the proceeding, the respondent's  
30 rights at the hearing on the petition, and the general powers and  
31 duties of a conservator;

32 (b) Determine the respondent's views about the appointment sought  
33 by the petitioner, including views about a proposed conservator, the  
34 conservator's proposed powers and duties, and the scope and duration  
35 of the proposed conservatorship;

36 (c) Inform the respondent of the respondent's right to employ and  
37 consult with an attorney at the respondent's expense and the right to  
38 request a court-appointed attorney; and

1 (d) Inform the respondent that all costs and expenses of the  
2 proceeding, including respondent's attorneys' fees, may be paid from  
3 the respondent's assets.

4 (4) A visitor appointed under subsection (2) of this section for  
5 an adult shall:

6 (a) Interview the petitioner and proposed conservator, if any;

7 (b) Review financial records of the respondent, if relevant to  
8 the visitor's recommendation under subsection (5)(b) of this section;

9 (c) Investigate whether the respondent's needs could be met by a  
10 protective arrangement instead of conservatorship or other less  
11 restrictive alternative and, if so, identify the arrangement or other  
12 less restrictive alternative; and

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

15 (5) A visitor appointed under subsection (2) of this section for  
16 an adult promptly shall file a report in a record with the court,  
17 which must include:

18 (a) A recommendation:

19 (i) Regarding the appropriateness of conservatorship, or whether  
20 a protective arrangement instead of conservatorship or other less  
21 restrictive alternative for meeting the respondent's needs is  
22 available;

23 (ii) If a conservatorship is recommended, whether it should be  
24 full or limited; and

25 (iii) If a limited conservatorship is recommended, the powers to  
26 be granted to the conservator, and the property that should be placed  
27 under the conservator's control;

28 (b) A statement of the qualifications of the proposed conservator  
29 and whether the respondent approves or disapproves of the proposed  
30 conservator;

31 (c) A recommendation whether a professional evaluation under  
32 section 407 of this act is necessary;

33 (d) A statement whether the respondent is able to attend a  
34 hearing at the location court proceedings typically are held;

35 (e) A statement whether the respondent is able to participate in  
36 a hearing and which identifies any technology or other form of  
37 support that would enhance the respondent's ability to participate;  
38 and

39 (f) Any other matter the court directs.

1           NEW SECTION.    **Sec. 406.**    APPOINTMENT AND ROLE OF ATTORNEY. (1)

2   Unless the respondent in a proceeding for appointment of a  
3   conservator is represented by an attorney, the court shall appoint an  
4   attorney to represent the respondent, regardless of the respondent's  
5   ability to pay.

6           (2) An attorney representing the respondent in a proceeding for  
7   appointment of a conservator 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 in type,  
13   duration, and scope, consistent with the respondent's interests.

14           (3) The court shall appoint an attorney to represent a parent of  
15   a minor who is the subject of a proceeding under section 402 of this  
16   act if:

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

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

20           (c) The court otherwise determines the parent needs  
21   representation.

22           NEW SECTION.    **Sec. 407.**    PROFESSIONAL EVALUATION. (1) At or

23   before a hearing on a petition for conservatorship for an adult, the  
24   court shall order a professional evaluation of the respondent:

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

26           (b) In other cases, unless the court finds it has sufficient  
27   information to determine the respondent's needs and abilities without  
28   the evaluation.

29           (2) If the court orders an evaluation under subsection (1) of  
30   this section, the respondent must be examined by a licensed  
31   physician, psychologist, social worker, or other individual appointed  
32   by the court who is qualified to evaluate the respondent's alleged  
33   cognitive and functional abilities and limitations and will not be  
34   advantaged or disadvantaged by a decision to grant the petition or  
35   otherwise have a conflict of interest. The individual conducting the  
36   evaluation promptly shall file a report in a record with the court.  
37   Unless otherwise directed by the court, the report must contain:

38           (a) A description of the nature, type, and extent of the  
39   respondent's cognitive and functional abilities and limitations with

1 regard to the management of the respondent's property and financial  
2 affairs;

3 (b) An evaluation of the respondent's mental and physical  
4 condition and, if appropriate, educational potential, adaptive  
5 behavior, and social skills;

6 (c) A prognosis for improvement with regard to the ability to  
7 manage the respondent's property and financial affairs; and

8 (d) The date of the examination on which the report is based.

9 (3) A respondent may decline to participate in an evaluation  
10 ordered under subsection (1) of this section.

11 NEW SECTION. **Sec. 408.** ATTENDANCE AND RIGHTS AT HEARING. (1)  
12 Except as otherwise provided in subsection (2) of this section, a  
13 hearing under section 403 of this act may not proceed unless the  
14 respondent attends the hearing. If it is not reasonably feasible for  
15 the respondent to attend a hearing at the location court proceedings  
16 typically are held, the court shall make reasonable efforts to hold  
17 the hearing at an alternative location convenient to the respondent  
18 or allow the respondent to attend the hearing using real-time audio-  
19 visual technology.

20 (2) A hearing under section 403 of this act may proceed without  
21 the respondent in attendance if the court finds by clear and  
22 convincing evidence that:

23 (a) The respondent consistently and repeatedly has refused to  
24 attend the hearing after having been fully informed of the right to  
25 attend and the potential consequences of failing to do so;

26 (b) There is no practicable way for the respondent to attend and  
27 participate in the hearing even with appropriate supportive services  
28 or technological assistance; or

29 (c) The respondent is a minor who has received proper notice and  
30 attendance would be harmful to the minor.

31 (3) The respondent may be assisted in a hearing under section 403  
32 of this act by a person or persons of the respondent's choosing,  
33 assistive technology, or an interpreter or translator, or a  
34 combination of these supports. If assistance would facilitate the  
35 respondent's participation in the hearing, but is not otherwise  
36 available to the respondent, the court shall make reasonable efforts  
37 to provide it.

38 (4) The respondent has a right to choose an attorney to represent  
39 the respondent at a hearing under section 403 of this act.

1 (5) At a hearing under section 403 of this act, the respondent  
2 may:

3 (a) Present evidence and subpoena witnesses and documents;

4 (b) Examine witnesses, including any court-appointed evaluator  
5 and the visitor; and

6 (c) Otherwise participate in the hearing.

7 (6) Unless excused by the court for good cause, a proposed  
8 conservator shall attend a hearing under section 403 of this act.

9 (7) A hearing under section 403 of this act must be closed on  
10 request of the respondent and a showing of good cause.

11 (8) Any person may request to participate in a hearing under  
12 section 403 of this act. The court may grant the request, with or  
13 without a hearing, on determining that the best interest of the  
14 respondent will be served. The court may impose appropriate  
15 conditions on the person's participation.

16 NEW SECTION. **Sec. 409.** CONFIDENTIALITY OF RECORDS. (1) The  
17 existence of a proceeding for or the existence of conservatorship is  
18 a matter of public record unless the court seals the record after:

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

22 (b) Either:

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

24 (ii) The conservatorship is terminated.

25 (2) An individual subject to a proceeding for a conservatorship,  
26 whether or not a conservator is appointed, an attorney designated by  
27 the individual, and a person entitled to notice under section 411(5)  
28 of this act or a subsequent order may access court records of the  
29 proceeding and resulting conservatorship, including the conservator's  
30 plan under section 419 of this act and the conservator's report under  
31 section 423 of this act. A person not otherwise entitled access to  
32 court records under this section for good cause may petition the  
33 court for access to court records of the conservatorship, including  
34 the conservator's plan and report. The court shall grant access if  
35 access is in the best interest of the respondent or individual  
36 subject to conservatorship or furthers the public interest and does  
37 not endanger the welfare or financial interests of the respondent or  
38 individual.

1 (3) A report under section 405 of this act of a visitor or  
2 professional evaluation under section 407 of this act is confidential  
3 and must be sealed on filing, but is available to:

4 (a) The court;

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

7 (c) The petitioner, visitor, and petitioner's and respondent's  
8 attorneys, for purposes of the proceeding;

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

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

14 NEW SECTION. **Sec. 410.** WHO MAY BE CONSERVATOR—ORDER OF  
15 PRIORITY. (1) Except as otherwise provided in subsection (3) of this  
16 section, the court in appointing a conservator shall consider persons  
17 qualified to be a conservator in the following order of priority:

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

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

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

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

27 (e) A family member or other individual who has shown special  
28 care and concern for the respondent.

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

37 (3) The court, acting in the best interest of the respondent, may  
38 decline to appoint as conservator a person having priority under

1 subsection (1) of this section and appoint a person having a lower  
2 priority or no priority.

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

8 (a) The individual is related to the respondent by blood,  
9 marriage, or adoption; or

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

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

17 NEW SECTION. **Sec. 411.** ORDER OF APPOINTMENT OF CONSERVATOR. (1)  
18 A court order appointing a conservator for a minor must include  
19 findings to support appointment of a conservator and, if a full  
20 conservatorship is granted, the reason a limited conservatorship  
21 would not meet the identified needs of the minor.

22 (2) A court order appointing a conservator for an adult must:

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

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

32 (3) A court order establishing a full conservatorship for an  
33 adult must state the basis for granting a full conservatorship and  
34 include specific findings to support the conclusion that a limited  
35 conservatorship would not meet the functional needs of the adult.

36 (4) A court order establishing a limited conservatorship must  
37 state the specific property placed under the control of the  
38 conservator and the powers granted to the conservator.



1 (5) The court, as part of an order establishing a  
2 conservatorship, shall identify any person that subsequently is  
3 entitled to:

4 (a) Notice of the rights of the individual subject to  
5 conservatorship under section 412(2) of this act;

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

8 (c) Notice that the conservator has delegated a power that  
9 requires court approval under section 414 of this act or  
10 substantially all powers of the conservator;

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

13 (e) A copy of the conservator's plan under section 419 of this  
14 act and the conservator's report under section 423 of this act;

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

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

18 (h) Notice of the death or significant change in the condition of  
19 the individual;

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

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

23 (6) If an individual subject to conservatorship is an adult, the  
24 spouse, domestic partner, and adult children of the adult subject to  
25 conservatorship are entitled under subsection (5) of this section to  
26 notice unless the court determines notice would be contrary to the  
27 preferences or prior directions of the adult subject to  
28 conservatorship or not in the best interest of the adult.

29 (7) If an individual subject to conservatorship is a minor, each  
30 parent and adult sibling of the minor is entitled under subsection  
31 (5) of this section to notice unless the court determines notice  
32 would not be in the best interest of the minor.

33 NEW SECTION. **Sec. 412.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

34 (1) A conservator appointed under section 411 of this act shall give  
35 to the individual subject to conservatorship and to all other persons  
36 given notice under section 403 of this act a copy of the order of  
37 appointment, together with notice of the right to request termination  
38 or modification. The order and notice must be given not later than  
39 fourteen days after the appointment.

1 (2) Not later than thirty days after appointment of a conservator  
2 under section 411 of this act, the court shall give to the individual  
3 subject to conservatorship, the conservator, and any other person  
4 entitled to notice under section 411(5) of this act a statement of  
5 the rights of the individual subject to conservatorship and  
6 procedures to seek relief if the individual is denied those rights.  
7 The statement must be in plain language, in at least sixteen-point  
8 font, and to the extent feasible, in a language in which the  
9 individual subject to conservatorship is proficient. The statement  
10 must notify the individual subject to conservatorship of the right  
11 to:

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

15 (b) Participate in decision making to the extent reasonably  
16 feasible;

17 (c) Receive a copy of the conservator's plan under section 419 of  
18 this act, the conservator's inventory under section 420 of this act,  
19 and the conservator's report under section 423 of this act; and

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

21 (3) If a conservator is appointed for the reasons stated in  
22 section 401(2)(a)(ii) of this act and the individual subject to  
23 conservatorship is missing, notice under this section to the  
24 individual is not required.

25 NEW SECTION. **Sec. 413.** EMERGENCY CONSERVATOR. (1) On its own or  
26 on petition by a person interested in an individual's welfare after a  
27 petition has been filed under section 402 of this act, the court may  
28 appoint an emergency conservator for the individual if the court  
29 finds:

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

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

35 (c) There is reason to believe that a basis for appointment of a  
36 conservator under section 401 of this act exists.

37 (2) The duration of authority of an emergency conservator may not  
38 exceed sixty days and the emergency conservator may exercise only the  
39 powers specified in the order of appointment. The emergency

1 conservator's authority may be extended once for not more than sixty  
2 days if the court finds that the conditions for appointment of an  
3 emergency conservator under subsection (1) of this section continue.

4 (3) Immediately on filing of a petition for an emergency  
5 conservator, the court shall appoint an attorney to represent the  
6 respondent in the proceeding. Except as otherwise provided in  
7 subsection (4) of this section, reasonable notice of the date, time,  
8 and place of a hearing on the petition must be given to the  
9 respondent, the respondent's attorney, and any other person the court  
10 determines.

11 (4) The court may appoint an emergency conservator without notice  
12 to the respondent and any attorney for the respondent only if the  
13 court finds from an affidavit or testimony that the respondent's  
14 property or financial interests will be substantially and irreparably  
15 harmed before a hearing with notice on the appointment can be held.  
16 If the court appoints an emergency conservator without giving notice  
17 under subsection (3) of this section, the court must give notice of  
18 the appointment not later than forty-eight hours after the  
19 appointment to:

20 (a) The respondent;

21 (b) The respondent's attorney; and

22 (c) Any other person the court determines.

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

25 (6) Appointment of an emergency conservator under this section is  
26 not a determination that a basis exists for appointment of a  
27 conservator under section 401 of this act.

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

31 NEW SECTION. **Sec. 414.** POWERS OF CONSERVATOR REQUIRING COURT  
32 APPROVAL. (1) Except as otherwise ordered by the court, a conservator  
33 must give notice to persons entitled to notice under section 403(4)  
34 of this act and receive specific authorization by the court before  
35 the conservator may exercise with respect to the conservatorship the  
36 power to:

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

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

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

4 (d) Exercise or release a power of appointment;

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

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

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

15 (h) Grant a creditor priority for payment over creditors of the  
16 same or higher class if the creditor is providing property or  
17 services used to meet the basic living and care needs of the  
18 individual subject to conservatorship and preferential treatment  
19 otherwise would be impermissible under section 428(5) of this act;  
20 and

21 (i) Make, modify, amend, or revoke the will of the individual  
22 subject to conservatorship in compliance with chapter 11.12 RCW.

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

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

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

37 (b) Possible reduction of income, estate, inheritance, or other  
38 tax liabilities;

39 (c) Eligibility for governmental assistance;

1 (d) The previous pattern of giving or level of support provided  
2 by the individual;

3 (e) Any existing estate plan or lack of estate plan of the  
4 individual;

5 (f) The life expectancy of the individual and the probability the  
6 conservatorship will terminate before the individual's death; and

7 (g) Any other relevant factor.

8 (4) A conservator may not revoke or amend a power of attorney for  
9 finances executed by the individual subject to conservatorship. If a  
10 power of attorney for finances is in effect, a decision of the agent  
11 takes precedence over that of the conservator, unless the court  
12 orders otherwise.

13 NEW SECTION. **Sec. 415.** PETITION FOR ORDER AFTER APPOINTMENT. An  
14 individual subject to conservatorship or a person interested in the  
15 welfare of the individual may petition for an order:

16 (1) Requiring the conservator to furnish a bond or collateral or  
17 additional bond or collateral or allowing a reduction in a bond or  
18 collateral previously furnished;

19 (2) Requiring an accounting for the administration of the  
20 conservatorship estate;

21 (3) Directing distribution;

22 (4) Removing the conservator and appointing a temporary or  
23 successor conservator;

24 (5) Modifying the type of appointment or powers granted to the  
25 conservator, if the extent of protection or management previously  
26 granted is excessive or insufficient to meet the individual's needs,  
27 including because the individual's abilities or supports have  
28 changed;

29 (6) Rejecting or modifying the conservator's plan under section  
30 419 of this act, the conservator's inventory under section 420 of  
31 this act, or the conservator's report under section 423 of this act;  
32 or

33 (7) Granting other appropriate relief.

34 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE ASSET PROTECTION  
35 ARRANGEMENT. (1) Except as otherwise provided in subsection (3) of  
36 this section, the court shall require a conservator to furnish a bond  
37 with a surety the court specifies, or require an alternative asset  
38 protection arrangement, conditioned on faithful discharge of all

1 duties of the conservator. The court may waive the requirement only  
2 if the court finds that a bond or other asset protection arrangement  
3 is not necessary to protect the interests of the individual subject  
4 to conservatorship. Except as otherwise provided in subsection (3) of  
5 this section, the court may not waive the requirement if the  
6 conservator is in the business of serving as a conservator and is  
7 being paid for the conservator's service.

8 (2) Unless the court directs otherwise, the bond required under  
9 this section must be in the amount of the aggregate capital value of  
10 the conservatorship estate, plus one year's estimated income, less  
11 the value of property deposited under an arrangement requiring a  
12 court order for its removal and real property the conservator lacks  
13 power to sell or convey without specific court authorization. The  
14 court, in place of surety on a bond, may accept collateral for the  
15 performance of the bond, including a pledge of securities or a  
16 mortgage of real property.

17 (3) A regulated financial institution qualified to do trust  
18 business in this state is not required to give a bond under this  
19 section.

20 NEW SECTION. **Sec. 417.** TERMS AND REQUIREMENTS OF BOND. (1) The  
21 following rules apply to the bond required under section 416 of this  
22 act:

23 (a) Except as otherwise provided by the bond, the surety and the  
24 conservator are jointly and severally liable.

25 (b) By executing a bond provided by a conservator, the surety  
26 submits to the personal jurisdiction of the court that issued letters  
27 of office to the conservator in a proceeding relating to the duties  
28 of the conservator in which the surety is named as a party. Notice of  
29 the proceeding must be given to the surety at the address shown in  
30 the records of the court in which the bond is filed and any other  
31 address of the surety then known to the person required to provide  
32 the notice.

33 (c) On petition of a successor conservator or person affected by  
34 a breach of the obligation of the bond, a proceeding may be brought  
35 against the surety for breach of the obligation of the bond.

36 (d) A proceeding against the bond may be brought until liability  
37 under the bond is exhausted.

1 (2) A proceeding may not be brought under this section against a  
2 surety of a bond on a matter as to which a proceeding against the  
3 conservator is barred.

4 (3) If a bond under section 416 of this act is not renewed by the  
5 conservator, the surety or sureties immediately shall give notice to  
6 the court and the individual subject to conservatorship.

7 NEW SECTION. **Sec. 418.** DUTIES OF CONSERVATOR. (1) A conservator  
8 is a fiduciary and has duties of prudence and loyalty to the  
9 individual subject to conservatorship.

10 (2) A conservator shall promote the self-determination of the  
11 individual subject to conservatorship and, to the extent feasible,  
12 encourage the individual to participate in decisions, act on the  
13 individual's own behalf, and develop or regain the capacity to manage  
14 the individual's personal affairs.

15 (3) In making a decision for an individual subject to  
16 conservatorship, the conservator shall make the decision the  
17 conservator reasonably believes the individual would make if able,  
18 unless doing so would fail to preserve the resources needed to  
19 maintain the individual's well-being and lifestyle or otherwise  
20 unreasonably harm or endanger the welfare or personal or financial  
21 interests of the individual. To determine the decision the individual  
22 would make if able, the conservator shall consider the individual's  
23 prior or current directions, preferences, opinions, values, and  
24 actions, to the extent actually known or reasonably ascertainable by  
25 the conservator.

26 (4) If a conservator cannot make a decision under subsection (3)  
27 of this section because the conservator does not know and cannot  
28 reasonably determine the decision the individual subject to  
29 conservatorship probably would make if able, or the conservator  
30 reasonably believes the decision the individual would make would fail  
31 to preserve resources needed to maintain the individual's well-being  
32 and lifestyle or otherwise unreasonably harm or endanger the welfare  
33 or personal or financial interests of the individual, the conservator  
34 shall act in accordance with the best interests of the individual. In  
35 determining the best interests of the individual, the conservator  
36 shall consider:

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

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

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

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

9 (a) The circumstances of the individual subject to  
10 conservatorship and the conservatorship estate;

11 (b) General economic conditions;

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

13 (d) The expected tax consequences of an investment decision or  
14 strategy;

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

17 (f) The expected total return from income and appreciation of  
18 capital;

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

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

23 (6) The propriety of a conservator's investment and management of  
24 the conservatorship estate is determined in light of the facts and  
25 circumstances existing when the conservator decides or acts and not  
26 by hindsight.

27 (7) A conservator shall make a reasonable effort to verify facts  
28 relevant to the investment and management of the conservatorship  
29 estate.

30 (8) A conservator that has special skills or expertise, or is  
31 named conservator in reliance on the conservator's representation of  
32 special skills or expertise, has a duty to use the special skills or  
33 expertise in carrying out the conservator's duties.

34 (9) In investing, selecting specific property for distribution,  
35 and invoking a power of revocation or withdrawal for the use or  
36 benefit of the individual subject to conservatorship, a conservator  
37 shall consider any estate plan of the individual known or reasonably  
38 ascertainable to the conservator and may examine the will or other  
39 donative, nominative, or appointive instrument of the individual.



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

5 (a) The property lacks sufficient equity; or

6 (b) Insuring the property would unreasonably dissipate the  
7 conservatorship estate or otherwise not be in the best interest of  
8 the individual.

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

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

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

19 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,

20 not later than sixty days after appointment and when there is a  
21 significant change in circumstances or the conservator seeks to  
22 deviate significantly from the conservator's plan, shall file with  
23 the court a plan for protecting, managing, expending, and  
24 distributing the assets of the conservatorship estate. The plan must  
25 be based on the needs of the individual subject to conservatorship  
26 and take into account the best interest of the individual as well as  
27 the individual's preferences, values, and prior directions, to the  
28 extent known to or reasonably ascertainable by the conservator. The  
29 conservator shall include in the plan:

30 (a) A budget containing projected expenses and resources,  
31 including an estimate of the total amount of fees the conservator  
32 anticipates charging per year and a statement or list of the amount  
33 the conservator proposes to charge for each service the conservator  
34 anticipates providing to the individual;

35 (b) How the conservator will involve the individual in decisions  
36 about management of the conservatorship estate;

37 (c) Any step the conservator plans to take to develop or restore  
38 the ability of the individual to manage the conservatorship estate;  
39 and

1 (d) An estimate of the duration of the conservatorship.

2 (2) A conservator shall give notice of the filing of the  
3 conservator's plan under subsection (1) of this section, together  
4 with a copy of the plan, to the individual subject to  
5 conservatorship, a person entitled to notice under section 411(5) of  
6 this act or a subsequent order, and any other person the court  
7 determines. The notice must include a statement of the right to  
8 object to the plan and be given not later than fourteen days after  
9 the filing.

10 (3) An individual subject to conservatorship and any person  
11 entitled under subsection (2) of this section to receive notice and a  
12 copy of the conservator's plan may object to the plan.

13 (4) The court shall review the conservator's plan filed under  
14 subsection (1) of this section and determine whether to approve the  
15 plan or require a new plan. In deciding whether to approve the plan,  
16 the court shall consider an objection under subsection (3) of this  
17 section and whether the plan is consistent with the conservator's  
18 duties and powers. The court may not approve the plan until thirty  
19 days after its filing.

20 (5) After a conservator's plan under this section is approved by  
21 the court, the conservator shall provide a copy of the plan to the  
22 individual subject to conservatorship, a person entitled to notice  
23 under section 411(5) of this act or a subsequent order, and any other  
24 person the court determines.

25 NEW SECTION. **Sec. 420.** INVENTORY—RECORDS. (1) Not later than  
26 sixty days after appointment, a conservator shall prepare and file  
27 with the appointing court a detailed inventory of the conservatorship  
28 estate, together with an oath or affirmation that the inventory is  
29 believed to be complete and accurate as far as information permits.

30 (2) A conservator shall give notice of the filing of an inventory  
31 to the individual subject to conservatorship, a person entitled to  
32 notice under section 411(5) of this act or a subsequent order, and  
33 any other person the court determines. The notice must be given not  
34 later than fourteen days after the filing.

35 (3) A conservator shall keep records of the administration of the  
36 conservatorship estate and make them available for examination on  
37 reasonable request of the individual subject to conservatorship, a  
38 guardian for the individual, or any other person the conservator or  
39 the court determines.

1        NEW SECTION.    **Sec. 421.**    ADMINISTRATIVE POWERS OF CONSERVATOR NOT  
2    REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section  
3    414 of this act or qualified or limited in the court's order of  
4    appointment and stated in the letters of office, a conservator has  
5    all powers granted in this section and any additional power granted  
6    to a trustee by law of this state other than this chapter.

7        (2) A conservator, acting reasonably and consistent with the  
8    fiduciary duties of the conservator to accomplish the purpose of the  
9    conservatorship, without specific court authorization or  
10   confirmation, may with respect to the conservatorship estate:

11        (a) Collect, hold, and retain property, including property in  
12   which the conservator has a personal interest and real property in  
13   another state, until the conservator determines disposition of the  
14   property should be made;

15        (b) Receive additions to the conservatorship estate;

16        (c) Continue or participate in the operation of a business or  
17   other enterprise;

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

20        (e) Invest assets;

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

23        (g) Acquire or dispose of property, including real property in  
24   another state, for cash or on credit, at public or private sale, and  
25   manage, develop, improve, exchange, partition, change the character  
26   of, or abandon property;

27        (h) Make ordinary or extraordinary repairs or alterations in a  
28   building or other structure, demolish any improvement, or raze an  
29   existing or erect a new party wall or building;

30        (i) Subdivide or develop land, dedicate land to public use, make  
31   or obtain the vacation of a plat and adjust a boundary, adjust a  
32   difference in valuation of land, exchange or partition land by giving  
33   or receiving consideration, and dedicate an easement to public use  
34   without consideration;

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

38        (k) Enter into a lease or arrangement for exploration and removal  
39   of minerals or other natural resources or a pooling or unitization  
40   agreement;

- 1 (l) Grant an option involving disposition of property or accept  
2 or exercise an option for the acquisition of property;
- 3 (m) Vote a security, in person or by general or limited proxy;
- 4 (n) Pay a call, assessment, or other sum chargeable or accruing  
5 against or on account of a security;
- 6 (o) Sell or exercise a stock subscription or conversion right;
- 7 (p) Consent, directly or through a committee or agent, to the  
8 reorganization, consolidation, merger, dissolution, or liquidation of  
9 a corporation or other business enterprise;
- 10 (q) Hold a security in the name of a nominee or in other form  
11 without disclosure of the conservatorship so that title to the  
12 security may pass by delivery;
- 13 (r) Insure:
- 14 (i) The conservatorship estate, in whole or in part, against  
15 damage or loss in accordance with section 418(10) of this act; and
- 16 (ii) The conservator against liability with respect to a third  
17 person;
- 18 (s) Borrow funds, with or without security, to be repaid from the  
19 conservatorship estate or otherwise;
- 20 (t) Advance funds for the protection of the conservatorship  
21 estate or the individual subject to conservatorship and all expenses,  
22 losses, and liability sustained in the administration of the  
23 conservatorship estate or because of holding any property for which  
24 the conservator has a lien on the conservatorship estate;
- 25 (u) Pay or contest a claim, settle a claim by or against the  
26 conservatorship estate or the individual subject to conservatorship  
27 by compromise, arbitration, or otherwise, or release, in whole or in  
28 part, a claim belonging to the conservatorship estate to the extent  
29 the claim is uncollectible;
- 30 (v) Pay a tax, assessment, compensation of the conservator or any  
31 guardian, and other expense incurred in the collection, care,  
32 administration, and protection of the conservatorship estate;
- 33 (w) Pay a sum distributable to the individual subject to  
34 conservatorship or an individual who is in fact dependent on the  
35 individual subject to conservatorship by paying the sum to the  
36 distributee or for the use of the distributee:
- 37 (i) To the guardian for the distributee;
- 38 (ii) To the custodian of the distributee under the uniform  
39 transfers to minors act (chapter 11.114 RCW); or

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

4 (x) Bring or defend an action, claim, or proceeding in any  
5 jurisdiction for the protection of the conservatorship estate or the  
6 conservator in the performance of the conservator's duties;

7 (y) Structure the finances of the individual subject to  
8 conservatorship to establish eligibility for a public benefit,  
9 including by making gifts consistent with the individual's  
10 preferences, values, and prior directions, if the conservator's  
11 action does not jeopardize the individual's welfare and otherwise is  
12 consistent with the conservator's duties; and

13 (z) Execute and deliver any instrument that will accomplish or  
14 facilitate the exercise of a power of the conservator.

15 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP  
16 ESTATE. Except as otherwise provided in section 414 of this act or  
17 qualified or limited in the court's order of appointment and stated  
18 in the letters of office, and unless contrary to a conservator's plan  
19 under section 419 of this act, the conservator may expend or  
20 distribute income or principal of the conservatorship estate without  
21 specific court authorization or confirmation for the support, care,  
22 education, health, or welfare of the individual subject to  
23 conservatorship or an individual who is in fact dependent on the  
24 individual subject to conservatorship, including the payment of child  
25 or spousal support, in accordance with the following rules:

26 (1) The conservator shall consider a recommendation relating to  
27 the appropriate standard of support, care, education, health, or  
28 welfare for the individual subject to conservatorship or individual  
29 who is dependent on the individual subject to conservatorship, made  
30 by a guardian for the individual subject to conservatorship, if any,  
31 and, if the individual subject to conservatorship is a minor, a  
32 recommendation made by a parent of the minor.

33 (2) The conservator acting in compliance with the conservator's  
34 duties under section 418 of this act is not liable for an expenditure  
35 or distribution made based on a recommendation under subsection (1)  
36 of this section unless the conservator knows the expenditure or  
37 distribution is not in the best interest of the individual subject to  
38 conservatorship.

1 (3) In making an expenditure or distribution under this section,  
2 the conservator shall consider:

3 (a) The size of the conservatorship estate, the estimated  
4 duration of the conservatorship, and the likelihood the individual  
5 subject to conservatorship, at some future time, may be fully self-  
6 sufficient and able to manage the individual's financial affairs and  
7 the conservatorship estate;

8 (b) The accustomed standard of living of the individual subject  
9 to conservatorship and individual who is dependent on the individual  
10 subject to conservatorship;

11 (c) Other funds or source used for the support of the individual  
12 subject to conservatorship; and

13 (d) The preferences, values, and prior directions of the  
14 individual subject to conservatorship.

15 (4) Funds expended or distributed under this section may be paid  
16 by the conservator to any person, including the individual subject to  
17 conservatorship, as reimbursement for expenditures the conservator  
18 might have made, or in advance for services to be provided to the  
19 individual subject to conservatorship or individual who is dependent  
20 on the individual subject to conservatorship if it is reasonable to  
21 expect the services will be performed and advance payment is  
22 customary or reasonably necessary under the circumstances.

23 NEW SECTION. **Sec. 423.** CONSERVATOR'S REPORT AND ACCOUNTING—  
24 MONITORING. (1) A conservator shall file with the court a report in a  
25 record regarding the administration of the conservatorship estate  
26 annually unless the court otherwise directs, on resignation or  
27 removal, on termination of the conservatorship, and at any other time  
28 the court directs.

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

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

34 (b) A list of the services provided to the individual subject to  
35 conservatorship;

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

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

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

8 (f) Anything of more than de minimis value which the conservator,  
9 any individual who resides with the conservator, or the spouse,  
10 domestic partner, parent, child, or sibling of the conservator has  
11 received from a person providing goods or services to the individual  
12 subject to conservatorship;

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

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

18 (3) The court may appoint a visitor to review a report under this  
19 section or conservator's plan under section 419 of this act,  
20 interview the individual subject to conservatorship or conservator,  
21 or investigate any other matter involving the conservatorship. In  
22 connection with the report, the court may order the conservator to  
23 submit the conservatorship estate to appropriate examination in a  
24 manner the court directs.

25 (4) Notice of the filing under this section of a conservator's  
26 report, together with a copy of the report, must be provided to the  
27 individual subject to conservatorship, a person entitled to notice  
28 under section 411(5) of this act or a subsequent order, and other  
29 persons the court determines. The notice and report must be given not  
30 later than fourteen days after filing.

31 (5) The court shall establish procedures for monitoring a report  
32 submitted under this section and review each report at least annually  
33 to determine whether:

34 (a) The reports provide sufficient information to establish the  
35 conservator has complied with the conservator's duties;

36 (b) The conservatorship should continue; and

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

38 (6) If the court determines there is reason to believe a  
39 conservator has not complied with the conservator's duties or the  
40 conservatorship should not continue, the court:

1 (a) Shall notify the individual subject to conservatorship, the  
2 conservator, and any other person entitled to notice under section  
3 411(5) of this act or a subsequent order;

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

5 (c) May appoint a visitor to interview the individual subject to  
6 conservatorship or conservator or investigate any matter involving  
7 the conservatorship; and

8 (d) Consistent with sections 430 and 431 of this act, may hold a  
9 hearing to consider removal of the conservator, termination of the  
10 conservatorship, or a change in the powers granted to the conservator  
11 or terms of the conservatorship.

12 (7) If the court has reason to believe fees requested by a  
13 conservator are not reasonable, the court shall hold a hearing to  
14 determine whether to adjust the requested fees.

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

20 (9) An order, after notice and hearing, approving an interim  
21 report of a conservator filed under this section adjudicates  
22 liabilities concerning a matter adequately disclosed in the report,  
23 as to a person given notice of the report or accounting.

24 (10) An order, after notice and hearing, approving a final report  
25 filed under this section discharges the conservator from all  
26 liabilities, claims, and causes of action by a person given notice of  
27 the report and the hearing as to a matter adequately disclosed in the  
28 report.

29 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY  
30 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an  
31 individual subject to conservatorship in property included in the  
32 conservatorship estate is not transferable or assignable by the  
33 individual and is not subject to levy, garnishment, or similar  
34 process for claims against the individual unless allowed under  
35 section 428 of this act.

36 (2) If an individual subject to conservatorship enters into a  
37 contract after having the right to enter the contract removed by the  
38 court, the contract is void against the individual and the



1 individual's property but is enforceable against the person that  
2 contracted with the individual.

3 (3) A person other than the conservator that deals with an  
4 individual subject to conservatorship with respect to property  
5 included in the conservatorship estate is entitled to protection  
6 provided by law of this state other than this chapter.

7 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF  
8 INTEREST. A transaction involving a conservatorship estate which is  
9 affected by a substantial conflict between the conservator's  
10 fiduciary duties and personal interests is voidable unless the  
11 transaction is authorized by court order after notice to persons  
12 entitled to notice under section 411(5) of this act or a subsequent  
13 order. A transaction affected by a substantial conflict includes a  
14 sale, encumbrance, or other transaction involving the conservatorship  
15 estate entered into by the conservator, an individual with whom the  
16 conservator resides, the spouse, domestic partner, descendant,  
17 sibling, agent, or attorney of the conservator, or a corporation or  
18 other enterprise in which the conservator has a substantial  
19 beneficial interest.

20 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH  
21 CONSERVATOR. (1) A person that assists or deals with a conservator in  
22 good faith and for value in any transaction, other than a transaction  
23 requiring a court order under section 414 of this act, is protected  
24 as though the conservator properly exercised any power in question.  
25 Knowledge by a person that the person is dealing with a conservator  
26 alone does not require the person to inquire into the existence of  
27 authority of the conservator or the propriety of the conservator's  
28 exercise of authority, but restrictions on authority stated in  
29 letters of office, or otherwise provided by law, are effective as to  
30 the person. A person that pays or delivers property to a conservator  
31 is not responsible for proper application of the property.

32 (2) Protection under subsection (1) of this section extends to a  
33 procedural irregularity or jurisdictional defect in the proceeding  
34 leading to the issuance of letters of office and does not substitute  
35 for protection for a person that assists or deals with a conservator  
36 provided by comparable provisions in law of this state other than  
37 this chapter relating to a commercial transaction or simplifying a  
38 transfer of securities by a fiduciary.

1        NEW SECTION.        **Sec. 427.**        DEATH OF INDIVIDUAL SUBJECT TO  
2 CONSERVATORSHIP. (1) If an individual subject to conservatorship  
3 dies, the conservator shall deliver to the court for safekeeping any  
4 will of the individual in the conservator's possession and inform the  
5 personal representative named in the will if feasible, or if not  
6 feasible, a beneficiary named in the will, of the delivery.

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

20        (3) On the death of an individual subject to conservatorship, the  
21 conservator shall conclude the administration of the conservatorship  
22 estate as provided in section 431 of this act.

23        NEW SECTION.        **Sec. 428.**        PRESENTATION AND ALLOWANCE OF CLAIM. (1)  
24 A conservator may pay, or secure by encumbering property included in  
25 the conservatorship estate, a claim against the conservatorship  
26 estate or the individual subject to conservatorship arising before or  
27 during the conservatorship, on presentation and allowance in  
28 accordance with the priorities under subsection (4) of this section.  
29 A claimant may present a claim by:

30        (a) Sending or delivering to the conservator a statement in a  
31 record of the claim, indicating its basis, the name and address of  
32 the claimant, and the amount claimed; or

33        (b) Filing the claim with the court, in a form acceptable to the  
34 court, and sending or delivering a copy of the claim to the  
35 conservator.

36        (2) A claim under subsection (1) of this section is presented on  
37 receipt by the conservator of the statement of the claim or the  
38 filing with the court of the claim, whichever first occurs. A  
39 presented claim is allowed if it is not disallowed in whole or in

1 part by the conservator in a record sent or delivered to the claimant  
2 not later than sixty days after its presentation. Before payment, the  
3 conservator may change an allowance of the claim to a disallowance in  
4 whole or in part, but not after allowance under a court order or  
5 order directing payment of the claim. Presentation of a claim tolls  
6 until thirty days after disallowance of the claim the running of a  
7 statute of limitations that has not expired relating to the claim.

8 (3) A claimant whose claim under subsection (1) of this section  
9 has not been paid may petition the court to determine the claim at  
10 any time before it is barred by a statute of limitations, and the  
11 court may order its allowance, payment, or security by encumbering  
12 property included in the conservatorship estate. If a proceeding is  
13 pending against the individual subject to conservatorship at the time  
14 of appointment of the conservator or is initiated thereafter, the  
15 moving party shall give the conservator notice of the proceeding if  
16 it could result in creating a claim against the conservatorship  
17 estate.

18 (4) If a conservatorship estate is likely to be exhausted before  
19 all existing claims are paid, the conservator shall distribute the  
20 estate in money or in kind in payment of claims in the following  
21 order:

22 (a) Costs and expenses of administration;

23 (b) A claim of the federal or state government having priority  
24 under law other than this chapter;

25 (c) A claim incurred by the conservator for support, care,  
26 education, health, or welfare previously provided to the individual  
27 subject to conservatorship or an individual who is in fact dependent  
28 on the individual subject to conservatorship;

29 (d) A claim arising before the conservatorship; and

30 (e) All other claims.

31 (5) Preference may not be given in the payment of a claim under  
32 subsection (4) of this section over another claim of the same class.  
33 A claim due and payable may not be preferred over a claim not due  
34 unless:

35 (a) Doing so would leave the conservatorship estate without  
36 sufficient funds to pay the basic living and health care expenses of  
37 the individual subject to conservatorship; and

38 (b) The court authorizes the preference under section 414(1)(h)  
39 of this act.

1 (6) If assets of a conservatorship estate are adequate to meet  
2 all existing claims, the court, acting in the best interest of the  
3 individual subject to conservatorship, may order the conservator to  
4 grant a security interest in the conservatorship estate for payment  
5 of a claim at a future date.

6 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)  
7 Except as otherwise agreed by a conservator, the conservator is not  
8 personally liable on a contract properly entered into in a fiduciary  
9 capacity in the course of administration of the conservatorship  
10 estate unless the conservator fails to reveal the conservator's  
11 representative capacity in the contract or before entering into the  
12 contract.

13 (2) A conservator is personally liable for an obligation arising  
14 from control of property of the conservatorship estate or an act or  
15 omission occurring in the course of administration of the  
16 conservatorship estate only if the conservator is personally at  
17 fault.

18 (3) A claim based on a contract entered into by a conservator in  
19 a fiduciary capacity, an obligation arising from control of property  
20 included in the conservatorship estate, or a tort committed in the  
21 course of administration of the conservatorship estate may be  
22 asserted against the conservatorship estate in a proceeding against  
23 the conservator in a fiduciary capacity, whether or not the  
24 conservator is personally liable for the claim.

25 (4) A question of liability between a conservatorship estate and  
26 the conservator personally may be determined in a proceeding for  
27 accounting, surcharge, or indemnification or another appropriate  
28 proceeding or action.

29 NEW SECTION. **Sec. 430.** REMOVAL OF CONSERVATOR—APPOINTMENT OF  
30 SUCCESSOR. (1) The court may remove a conservator for failure to  
31 perform the conservator's duties or other good cause and appoint a  
32 successor conservator to assume the duties of the conservator.

33 (2) The court shall hold a hearing to determine whether to remove  
34 a conservator and appoint a successor on:

35 (a) Petition of the individual subject to conservatorship,  
36 conservator, or person interested in the welfare of the individual  
37 which contains allegations that, if true, would support a reasonable  
38 belief that removal of the conservator and appointment of a successor

1 may be appropriate, but the court may decline to hold a hearing if a  
2 petition based on the same or substantially similar facts was filed  
3 during the preceding six months;

4 (b) Communication from the individual subject to conservatorship,  
5 conservator, or person interested in the welfare of the individual  
6 which supports a reasonable belief that removal of the conservator  
7 and appointment of a successor may be appropriate; or

8 (c) Determination by the court that a hearing would be in the  
9 best interest of the individual subject to conservatorship.

10 (3) Notice of a petition under subsection (2)(a) of this section  
11 must be given to the individual subject to conservatorship, the  
12 conservator, and any other person the court determines.

13 (4) An individual subject to conservatorship who seeks to remove  
14 the conservator and have a successor appointed has the right to  
15 choose an attorney to represent the individual in this matter. The  
16 court shall award reasonable attorneys' fees to the attorney as  
17 provided in section 119 of this act.

18 (5) In selecting a successor conservator, the court shall follow  
19 the priorities under section 410 of this act.

20 (6) Not later than thirty days after appointing a successor  
21 conservator, the court shall give notice of the appointment to the  
22 individual subject to conservatorship and any person entitled to  
23 notice under section 411(5) of this act or a subsequent order.

24 NEW SECTION. **Sec. 431.** TERMINATION OR MODIFICATION OF  
25 CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the  
26 earliest of:

27 (a) A court order terminating the conservatorship;

28 (b) The minor becoming an adult or, if the minor consents or the  
29 court finds by clear and convincing evidence that substantial harm to  
30 the minor's interests is otherwise likely, attaining twenty-one years  
31 of age;

32 (c) Emancipation of the minor; or

33 (d) Death of the minor.

34 (2) A conservatorship for an adult terminates on order of the  
35 court or when the adult dies.

36 (3) An individual subject to conservatorship, the conservator, or  
37 a person interested in the welfare of the individual may petition  
38 for:

1 (a) Termination of the conservatorship on the ground that a basis  
2 for appointment under section 401 of this act does not exist or  
3 termination would be in the best interest of the individual or for  
4 other good cause; or

5 (b) Modification of the conservatorship on the ground that the  
6 extent of protection or assistance granted is not appropriate or for  
7 other good cause.

8 (4) The court shall hold a hearing to determine whether  
9 termination or modification of a conservatorship is appropriate on:

10 (a) Petition under subsection (3) of this section that contains  
11 allegations that, if true, would support a reasonable belief that  
12 termination or modification of the conservatorship may be  
13 appropriate, but the court may decline to hold a hearing if a  
14 petition based on the same or substantially similar facts was filed  
15 within the preceding six months;

16 (b) A communication from the individual subject to  
17 conservatorship, conservator, or person interested in the welfare of  
18 the individual which supports a reasonable belief that termination or  
19 modification of the conservatorship may be appropriate, including  
20 because the functional needs of the individual or supports or  
21 services available to the individual have changed;

22 (c) A report from a guardian or conservator which indicates that  
23 termination or modification may be appropriate because the functional  
24 needs or supports or services available to the individual have  
25 changed or a protective arrangement instead of conservatorship or  
26 other less restrictive alternative is available; or

27 (d) A determination by the court that a hearing would be in the  
28 best interest of the individual.

29 (5) Notice of a petition under subsection (3) of this section  
30 must be given to the individual subject to conservatorship, the  
31 conservator, and any such other person the court determines.

32 (6) On presentation of prima facie evidence for termination of a  
33 conservatorship, the court shall order termination unless it is  
34 proven that a basis for appointment of a conservator under section  
35 401 of this act exists.

36 (7) The court shall modify the powers granted to a conservator if  
37 the powers are excessive or inadequate due to a change in the  
38 abilities or limitations of the individual subject to  
39 conservatorship, the individual's supports, or other circumstances.

1 (8) Unless the court otherwise orders for good cause, before  
2 terminating a conservatorship, the court shall follow the same  
3 procedures to safeguard the rights of the individual subject to  
4 conservatorship which apply to a petition for conservatorship.

5 (9) An individual subject to conservatorship who seeks to  
6 terminate or modify the terms of the conservatorship has the right to  
7 choose an attorney to represent the individual in this matter. The  
8 court shall award reasonable attorneys' fees to the attorney as  
9 provided in section 119 of this act.

10 (10) On termination of a conservatorship other than by reason of  
11 the death of the individual subject to conservatorship, property of  
12 the conservatorship estate passes to the individual. The order of  
13 termination must direct the conservator to file a final report and  
14 petition for discharge on approval by the court of the final report.

15 (11) On termination of a conservatorship by reason of the death  
16 of the individual subject to conservatorship, the conservator  
17 promptly shall file a final report and petition for discharge on  
18 approval by the court of the final report. On approval of the final  
19 report, the conservator shall proceed expeditiously to distribute the  
20 conservatorship estate to the individual's estate or as otherwise  
21 ordered by the court. The conservator may take reasonable measures  
22 necessary to preserve the conservatorship estate until distribution  
23 can be made.

24 (12) The court shall issue a final order of discharge on the  
25 approval by the court of the final report and satisfaction by the  
26 conservator of any other condition the court imposed on the  
27 conservator's discharge.

28 NEW SECTION. Sec. 432. TRANSFER FOR BENEFIT OF MINOR WITHOUT  
29 APPOINTMENT OF CONSERVATOR. (1) Unless a person required to transfer  
30 funds or other property to a minor knows that a conservator for the  
31 minor has been appointed or a proceeding is pending for  
32 conservatorship, the person may transfer an amount or value not  
33 exceeding fifteen thousand dollars in a twelve-month period to:

34 (a) A person that has care or custody of the minor and with whom  
35 the minor resides;

36 (b) A guardian for the minor;

37 (c) A custodian under the uniform transfers to minors act  
38 (chapter 11.114 RCW); or

1 (d) A financial institution as a deposit in an interest-bearing  
2 account or certificate solely in the name of the minor and shall give  
3 notice to the minor of the deposit.

4 (2) A person that transfers funds or other property under this  
5 section is not responsible for its proper application.

6 (3) A person that receives funds or other property for a minor  
7 under subsection (1)(a) or (b) of this section may apply it only to  
8 the support, care, education, health, or welfare of the minor, and  
9 may not derive a personal financial benefit from it, except for  
10 reimbursement for necessary expenses. Funds not applied for these  
11 purposes must be preserved for the future support, care, education,  
12 health, or welfare of the minor, and the balance, if any, transferred  
13 to the minor when the minor becomes an adult or otherwise is  
14 emancipated.

## 15 ARTICLE 5

### 16 OTHER PROTECTIVE ARRANGEMENTS

#### 17 NEW SECTION. **Sec. 501.** AUTHORITY FOR PROTECTIVE ARRANGEMENT.

18 (1) Under this article, a court:

19 (a) On receiving a petition for a guardianship for an adult may  
20 order a protective arrangement instead of guardianship as a less  
21 restrictive alternative to guardianship; and

22 (b) On receiving a petition for a conservatorship for an  
23 individual may order a protective arrangement instead of  
24 conservatorship as a less restrictive alternative to conservatorship.

25 (2) A person interested in an adult's welfare, including the  
26 adult or a conservator for the adult, may petition under this article  
27 for a protective arrangement instead of guardianship.

28 (3) The following persons may petition under this article for a  
29 protective arrangement instead of conservatorship:

30 (a) The individual for whom the protective arrangement is sought;

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

35 (c) The guardian for the individual.

36 NEW SECTION. **Sec. 502.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD  
37 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under



1 section 302 of this act for a guardianship or under section 501(2) of  
2 this act for a protective arrangement instead of guardianship, the  
3 court may issue an order under subsection (2) of this section for a  
4 protective arrangement instead of guardianship if the court finds by  
5 clear and convincing evidence that:

6 (a) The respondent lacks the ability to meet essential  
7 requirements for physical health, safety, or self-care because the  
8 respondent is unable to receive and evaluate information or make or  
9 communicate decisions, even with appropriate supportive services,  
10 technological assistance, or supported decision making; and

11 (b) The respondent's identified needs cannot be met by a less  
12 restrictive alternative.

13 (2) If the court makes the findings under subsection (1) of this  
14 section, the court, instead of appointing a guardian, may:

15 (a) Authorize or direct a transaction necessary to meet the  
16 respondent's need for health, safety, or care, including:

17 (i) A particular medical treatment or refusal of a particular  
18 medical treatment;

19 (ii) A move to a specified place of dwelling; or

20 (iii) Visitation or supervised visitation between the respondent  
21 and another person;

22 (b) Restrict access to the respondent by a specified person whose  
23 access places the respondent at serious risk of physical,  
24 psychological, or financial harm; and

25 (c) Reorder other arrangements on a limited basis that are  
26 appropriate.

27 (3) In deciding whether to issue an order under this section, the  
28 court shall consider the factors under sections 313 and 314 of this  
29 act that a guardian must consider when making a decision on behalf of  
30 an adult subject to guardianship.

31 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD  
32 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a  
33 petition under section 402 of this act for conservatorship for an  
34 adult or under section 501(3) of this act for a protective  
35 arrangement instead of a conservatorship for an adult, the court may  
36 issue an order under subsection (3) of this section for a protective  
37 arrangement instead of conservatorship for the adult if the court  
38 finds by clear and convincing evidence that:

1 (a) The adult is unable to manage property or financial affairs  
2 because:

3 (i) Of a limitation in the ability to receive and evaluate  
4 information or make or communicate decisions, even with appropriate  
5 supportive services, technological assistance, or supported decision  
6 making; or

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

9 (b) An order under subsection (3) of this section is necessary  
10 to:

11 (i) Avoid harm to the adult or significant dissipation of the  
12 property of the adult; or

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

16 (c) The respondent's identified needs cannot be met by a less  
17 restrictive alternative.

18 (2) After the hearing on a petition under section 402 of this act  
19 for conservatorship for a minor or under section 501(3) of this act  
20 for a protective arrangement instead of conservatorship for a minor,  
21 the court may issue an order under subsection (3) of this section for  
22 a protective arrangement instead of conservatorship for the  
23 respondent if the court finds by a preponderance of the evidence that  
24 the arrangement is in the minor's best interest, and:

25 (a) If the minor has a parent, the court gives weight to any  
26 recommendation of the parent whether an arrangement is in the minor's  
27 best interest;

28 (b) Either:

29 (i) The minor owns money or property requiring management or  
30 protection that otherwise cannot be provided;

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

33 (iii) The arrangement is necessary or desirable to obtain or  
34 provide funds or other property needed for the support, care,  
35 education, health, or welfare of the minor; and

36 (iv) The order under subsection (3) of this section is necessary  
37 or desirable to obtain or provide money needed for the support, care,  
38 education, health, or welfare of the minor.

39 (3) If the court makes the findings under subsection (1) or (2)  
40 of this section, the court, instead of appointing a conservator, may:

1 (a) Authorize or direct a transaction necessary to protect the  
2 financial interest or property of the respondent, including:

3 (i) An action to establish eligibility for benefits;

4 (ii) Payment, delivery, deposit, or retention of funds or  
5 property;

6 (iii) Sale, mortgage, lease, or other transfer of property;

7 (iv) Purchase of an annuity;

8 (v) Entry into a contractual relationship, including a contract  
9 to provide for personal care, supportive services, education,  
10 training, or employment;

11 (vi) Addition to or establishment of a trust;

12 (vii) Ratification or invalidation of a contract, trust, will, or  
13 other transaction, including a transaction related to the property or  
14 business affairs of the respondent; or

15 (viii) Settlement of a claim; or

16 (b) Restrict access to the respondent's property by a specified  
17 person whose access to the property places the respondent at serious  
18 risk of financial harm.

19 (4) After the hearing on a petition under section 501 (1)(b) or  
20 (3) of this act, whether or not the court makes the findings under  
21 subsection (1) or (2) of this section, the court may issue an order  
22 to restrict access to the respondent or the respondent's property by  
23 a specified person that the court finds by clear and convincing  
24 evidence:

25 (a) Through fraud, coercion, duress, or the use of deception and  
26 control caused or attempted to cause an action that would have  
27 resulted in financial harm to the respondent or the respondent's  
28 property; and

29 (b) Poses a serious risk of substantial financial harm to the  
30 respondent or the respondent's property.

31 (5) Before issuing an order under subsection (3) or (4) of this  
32 section, the court shall consider the factors under section 418 of  
33 this act a conservator must consider when making a decision on behalf  
34 of an individual subject to conservatorship.

35 (6) Before issuing an order under subsection (3) or (4) of this  
36 section for a respondent who is a minor, the court also shall  
37 consider the best interest of the minor, the preference of the  
38 parents of the minor, and the preference of the minor, if the minor  
39 is twelve years of age or older.

1        NEW SECTION.    **Sec. 504.**    PETITION FOR PROTECTIVE ARRANGEMENT. A  
2 petition for a protective arrangement instead of guardianship or  
3 conservatorship must state the petitioner's name, principal  
4 residence, current street address, if different, relationship to the  
5 respondent, interest in the protective arrangement, the name and  
6 address of any attorney representing the petitioner, and, to the  
7 extent known, the following:

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

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

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

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

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

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

26        (a) A person responsible for the care or custody of the  
27 respondent;

28        (b) Any attorney currently representing the respondent;

29        (c) The representative payee appointed by the social security  
30 administration for the respondent;

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

33        (e) A trustee or custodian of a trust or custodianship of which  
34 the respondent is a beneficiary;

35        (f) The fiduciary appointed for the respondent by the department  
36 of veterans affairs;

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

39        (h) An agent designated under a power of attorney for finances in  
40 which the respondent is identified as the principal;

1 (i) A person nominated as guardian or conservator by the  
2 respondent if the respondent is twelve years of age or older;

3 (j) A person nominated as guardian by the respondent's parent,  
4 spouse, or domestic partner in a will or other signed record;

5 (k) A person known to have routinely assisted the respondent with  
6 decision making in the six-month period immediately before the filing  
7 of the petition; and

8 (l) If the respondent is a minor:

9 (i) An adult not otherwise listed with whom the respondent  
10 resides; and

11 (ii) Each person not otherwise listed that had primary care or  
12 custody of the respondent for at least sixty days during the two  
13 years immediately before the filing of the petition or for at least  
14 seven hundred thirty days during the five years immediately before  
15 the filing of the petition;

16 (4) The nature of the protective arrangement sought;

17 (5) The reason the protective arrangement sought is necessary,  
18 including a brief description of:

19 (a) The nature and extent of the respondent's alleged need;

20 (b) Any less restrictive alternative for meeting the respondent's  
21 alleged need which has been considered or implemented;

22 (c) If no less restrictive alternative has been considered or  
23 implemented, the reason less restrictive alternatives have not been  
24 considered or implemented; and

25 (d) The reason other less restrictive alternatives are  
26 insufficient to meet the respondent's alleged need;

27 (6) The name and current address, if known, of any person with  
28 whom the petitioner seeks to limit the respondent's contact;

29 (7) Whether the respondent needs an interpreter, translator, or  
30 other form of support to communicate effectively with the court or  
31 understand court proceedings;

32 (8) If a protective arrangement instead of guardianship is sought  
33 and the respondent has property other than personal effects, a  
34 general statement of the respondent's property with an estimate of  
35 its value, including any insurance or pension, and the source and  
36 amount of any other anticipated income or receipts; and

37 (9) If a protective arrangement instead of conservatorship is  
38 sought, a general statement of the respondent's property with an  
39 estimate of its value, including any insurance or pension, and the  
40 source and amount of other anticipated income or receipts.

1        NEW SECTION.    **Sec. 505.**    NOTICE AND HEARING. (1) On filing of a  
2 petition under section 501 of this act, the court shall set a date,  
3 time, and place for a hearing on the petition.

4        (2) A copy of a petition under section 501 of this act and notice  
5 of a hearing on the petition must be served personally on the  
6 respondent. The notice must inform the respondent of the respondent's  
7 rights at the hearing, including the right to an attorney and to  
8 attend the hearing. The notice must include a description of the  
9 nature, purpose, and consequences of granting the petition. The court  
10 may not grant the petition if notice substantially complying with  
11 this subsection is not served on the respondent.

12        (3) In a proceeding on a petition under section 501 of this act,  
13 the notice required under subsection (2) of this section must be  
14 given to the persons required to be listed in the petition under  
15 section 504 (1) through (3) of this act and any other person  
16 interested in the respondent's welfare the court determines. Failure  
17 to give notice under this subsection does not preclude the court from  
18 granting the petition.

19        (4) After the court has ordered a protective arrangement under  
20 this article, notice of a hearing on a petition filed under this  
21 chapter, together with a copy of the petition, must be given to the  
22 respondent and any other person the court determines.

23        NEW SECTION.    **Sec. 506.**    APPOINTMENT AND ROLE OF VISITOR. (1) On  
24 filing of a petition under section 501 of this act for a protective  
25 arrangement instead of guardianship, the court shall appoint a  
26 visitor. The visitor must be an individual with training or  
27 experience in the type of abilities, limitations, and needs alleged  
28 in the petition.

29        (2) On filing of a petition under section 501 of this act for a  
30 protective arrangement instead of conservatorship for a minor, the  
31 court may appoint a visitor to investigate a matter related to the  
32 petition or inform the minor or a parent of the minor about the  
33 petition or a related matter.

34        (3) On filing of a petition under section 501 of this act or a  
35 protective arrangement instead of conservatorship for an adult, the  
36 court shall appoint a visitor unless the respondent is represented by  
37 an attorney appointed by the court. The visitor must be an individual  
38 with training or experience in the types of abilities, limitations,  
39 and needs alleged in the petition.

1 (4) A visitor appointed under subsection (1) or (3) of this  
2 section shall interview the respondent in person and in a manner the  
3 respondent is best able to understand:

4 (a) Explain to the respondent the substance of the petition, the  
5 nature, purpose, and effect of the proceeding, and the respondent's  
6 rights at the hearing on the petition;

7 (b) Determine the respondent's views with respect to the order  
8 sought;

9 (c) Inform the respondent of the respondent's right to employ and  
10 consult with an attorney at the respondent's expense and the right to  
11 request a court-appointed attorney;

12 (d) 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 (e) 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 (f) 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 (g) If a protective arrangement instead of conservatorship is  
24 sought, review financial records of the respondent, if relevant to  
25 the visitor's recommendation under subsection (5)(c) of this section;  
26 and

27 (h) Investigate the allegations in the petition and any other  
28 matter relating to the petition the court directs.

29 (5) A visitor under this section promptly shall file a report in  
30 a record with the court, which must include:

31 (a) A recommendation whether an attorney should be appointed to  
32 represent the respondent;

33 (b) To the extent relevant to the order sought, a summary of  
34 self-care, independent living tasks, and financial management tasks  
35 the respondent:

36 (i) Can manage without assistance or with existing supports;

37 (ii) Could manage with the assistance of appropriate supportive  
38 services, technological assistance, or supported decision making; and

39 (iii) Cannot manage;

1 (c) A recommendation regarding the appropriateness of the  
2 protective arrangement sought and whether a less restrictive  
3 alternative for meeting the respondent's needs is available;

4 (d) If the petition seeks to change the physical location of the  
5 dwelling of the respondent, a statement whether the proposed dwelling  
6 meets the respondent's needs and whether the respondent has expressed  
7 a preference as to the respondent's dwelling;

8 (e) A recommendation whether a professional evaluation under  
9 section 508 of this act is necessary;

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

12 (g) 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 (h) Any other matter the court directs.

17 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1)

18 Unless the respondent in a proceeding under this article is  
19 represented by an attorney, the court shall appoint an attorney to  
20 represent the respondent, regardless of the respondent's ability to  
21 pay.

22 (2) An attorney representing the respondent in a proceeding under  
23 this article 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 alternative in  
29 type, duration, and scope, consistent with the respondent's  
30 interests.

31 (3) The court shall appoint an attorney to represent a parent of  
32 a minor who is the subject of a proceeding under this article if:

33 (a) The parent objects to the entry of an order for a protective  
34 arrangement instead of guardianship or conservatorship;

35 (b) The court determines that counsel is needed to ensure that  
36 consent to the entry of an order for a protective arrangement is  
37 informed; or

38 (c) The court otherwise determines the parent needs  
39 representation.



1        NEW SECTION.        **Sec. 508.**        PROFESSIONAL EVALUATION. (1) At or  
2 before a hearing on a petition under this article for a protective  
3 arrangement, the court shall order a professional evaluation of the  
4 respondent:

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

6            (b) In other cases, unless the court finds that it has sufficient  
7 information to determine the respondent's needs and abilities without  
8 the evaluation.

9            (2) If the court orders an evaluation under subsection (1) of  
10 this section, the respondent must be examined by a licensed  
11 physician, psychologist, social worker, or other individual appointed  
12 by the court who is qualified to evaluate the respondent's alleged  
13 cognitive and functional abilities and limitations and will not be  
14 advantaged or disadvantaged by a decision to grant the petition or  
15 otherwise have a conflict of interest. The individual conducting the  
16 evaluation promptly shall file a report in a record with the court.  
17 Unless otherwise directed by the court, the report must contain:

18            (a) A description of the nature, type, and extent of the  
19 respondent's cognitive and functional abilities and limitations;

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

23            (c) A prognosis for improvement, including with regard to the  
24 ability to manage the respondent's property and financial affairs if  
25 a limitation in that ability is alleged, and recommendation for the  
26 appropriate treatment, support, or habilitation plan; and

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

28            (3) The respondent may decline to participate in an evaluation  
29 ordered under subsection (1) of this section.

30        NEW SECTION.        **Sec. 509.**        ATTENDANCE AND RIGHTS AT HEARING. (1)  
31 Except as otherwise provided in subsection (2) of this section, a  
32 hearing under this article may not proceed unless the respondent  
33 attends the hearing. If it is not reasonably feasible for the  
34 respondent to attend a hearing at the location court proceedings  
35 typically are held, the court shall make reasonable efforts to hold  
36 the hearing at an alternative location convenient to the respondent  
37 or allow the respondent to attend the hearing using real-time audio-  
38 visual technology.

1 (2) A hearing under this article may proceed without the  
2 respondent in attendance if the court finds by clear and convincing  
3 evidence that:

4 (a) The respondent consistently and repeatedly has refused to  
5 attend the hearing after having been fully informed of the right to  
6 attend and the potential consequences of failing to do so;

7 (b) There is no practicable way for the respondent to attend and  
8 participate in the hearing even with appropriate supportive services  
9 and technological assistance; or

10 (c) The respondent is a minor who has received proper notice and  
11 attendance would be harmful to the minor.

12 (3) The respondent may be assisted in a hearing under this  
13 article by a person or persons of the respondent's choosing,  
14 assistive technology, or an interpreter or translator, or a  
15 combination of these supports. If assistance would facilitate the  
16 respondent's participation in the hearing, but is not otherwise  
17 available to the respondent, the court shall make reasonable efforts  
18 to provide it.

19 (4) The respondent has a right to choose an attorney to represent  
20 the respondent at a hearing under this article.

21 (5) At a hearing under this article, the respondent may:

22 (a) Present evidence and subpoena witnesses and documents;

23 (b) Examine witnesses, including any court-appointed evaluator  
24 and the visitor; and

25 (c) Otherwise participate in the hearing.

26 (6) A hearing under this article must be closed on request of the  
27 respondent and a showing of good cause.

28 (7) Any person may request to participate in a hearing under this  
29 article. The court may grant the request, with or without a hearing,  
30 on determining that the best interests of the respondent will be  
31 served. The court may impose appropriate conditions on the person's  
32 participation.

33 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give  
34 notice of an order under this article to the individual who is  
35 subject to the protective arrangement instead of guardianship or  
36 conservatorship, a person whose access to the individual is  
37 restricted by the order, and any other person the court determines.

1        NEW SECTION.        **Sec. 511.**        CONFIDENTIALITY OF RECORDS. (1) The

2 existence of a proceeding for or the existence of a protective  
3 arrangement instead of guardianship or conservatorship is a matter of  
4 public record unless the court seals the record after:

5        (a) The respondent, the individual subject to the protective  
6 arrangement, or the parent of a minor subject to the protective  
7 arrangement requests the record be sealed; and

8        (b) Either:

9        (i) The proceeding is dismissed;

10        (ii) The protective arrangement is no longer in effect; or

11        (iii) An act authorized by the order granting the protective  
12 arrangement has been completed.

13        (2) A respondent, an individual subject to a protective  
14 arrangement instead of guardianship or conservatorship, an attorney  
15 designated by the respondent or individual, a parent of a minor  
16 subject to a protective arrangement, and any other person the court  
17 determines are entitled to access court records of the proceeding and  
18 resulting protective arrangement. A person not otherwise entitled  
19 access to court records under this subsection for good cause may  
20 petition the court for access. The court shall grant access if access  
21 is in the best interest of the respondent or individual subject to  
22 the protective arrangement or furthers the public interest and does  
23 not endanger the welfare or financial interests of the respondent or  
24 individual.

25        (3) A report of a visitor or professional evaluation generated in  
26 the course of a proceeding under this article must be sealed on  
27 filing but is available to:

28        (a) The court;

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

31        (c) The petitioner, visitor, and petitioner's and respondent's  
32 attorneys, for purposes of the proceeding;

33        (d) Unless the court orders otherwise, an agent appointed under a  
34 power of attorney for finances in which the respondent is the  
35 principal;

36        (e) If the order is for a protective arrangement instead of  
37 guardianship and unless the court orders otherwise, an agent  
38 appointed under a power of attorney for health care in which the  
39 respondent is identified as the principal; and

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

3 NEW SECTION. **Sec. 512.** APPOINTMENT OF COMMISSIONER. The court  
4 may appoint a commissioner to assist in implementing a protective  
5 arrangement under this article. The commissioner has the authority  
6 conferred by the order of appointment and serves until discharged by  
7 court order.

8 **ARTICLE 6**  
9 **FORMS**

10 NEW SECTION. **Sec. 601.** USE OF FORMS. Use of the forms contained  
11 in this article is optional. Failure to use these forms does not  
12 prejudice any party.

13 NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR.  
14 This form may be used to petition for guardianship for a minor.

15 Petition for Guardianship for Minor

16 State of: . . . . .

17 County of: . . . . .

18 Name and address of attorney representing petitioner, if  
19 applicable: . . . . .

20 . . . . .

21 . . . . .

22 Note to petitioner: This form can be used to petition for a  
23 guardian for a minor. A court may appoint a guardian for a minor  
24 who does not have a guardian if the court finds the appointment  
25 is in the minor's best interest, and: The parents, after being  
26 fully informed of the nature and consequences of guardianship,  
27 consent; all parental rights have been terminated; or the court  
28 finds by clear and convincing evidence that the parents are  
29 unwilling or unable to exercise their parental rights.

30 (1) Information about the person filing this petition (the  
31 petitioner.)

32 (a) Name: . . . . .

33 (b) Principal residence: . . . . .

34 (c) Current street address (if different): . . . . .

35 (d) Relationship to minor: . . . . .

1 (e) Interest in this petition: . . . . .  
2 (f) Telephone number (optional): . . . . .  
3 (g) Email address (optional): . . . . .  
4 (2) Information about the minor alleged to need a guardian.  
5 Provide the following information to the extent known.  
6 (a) Name: . . . . .  
7 (b) Age: . . . . .  
8 (c) Principal residence: . . . . .  
9 (d) Current street address (if different): . . . . .  
10 (e) If petitioner anticipates the minor moving, or seeks to  
11 move the minor, proposed new address: . . . . .  
12 (f) Does the minor need an interpreter, translator, or other  
13 form of support to communicate with the court or understand court  
14 proceedings? If so, please explain: . . . . .  
15 (g) Telephone number (optional): . . . . .  
16 (h) Email address (optional): . . . . .  
17 (3) Information about the minor's parent(s).  
18 (a) Name(s) of living parent(s): . . . . .  
19 (b) Current street address(es) of living parent(s): . . . . .  
20 (c) Does any parent need an interpreter, translator, or other  
21 form of support to communicate with the court or understand court  
22 proceedings? If so, please explain: . . . . .  
23 . . . . .  
24 . . . . .  
25 (4) People who are required to be notified of this petition.  
26 State the name and current address of the people listed in  
27 Appendix A.  
28 . . . . .  
29 . . . . .  
30 (5) Appointment requested. State the name and address of any  
31 proposed guardian and the reason the proposed guardian should be  
32 selected.  
33 . . . . .  
34 . . . . .  
35 (6) State why petitioner seeks the appointment. Include a  
36 description of the nature and extent of the minor's alleged need.  
37 . . . . .  
38 . . . . .

1 (7) Property. If the minor has property other than personal  
2 effects, state the minor's property with an estimate of its  
3 value.

4 . . . . .  
5 . . . . .

6 (8) Other proceedings. If there are any other proceedings  
7 concerning the care or custody of the minor currently pending in  
8 any court in this state or another jurisdiction, please describe  
9 them.

10 . . . . .  
11 . . . . .

12 (9) Attorney(s). If the minor or the minor's parent is  
13 represented by an attorney in this matter, state the name,  
14 telephone number, email address, and address of the attorney(s).

15 . . . . .  
16 . . . . .

17 SIGNATURE

18 . . . . .	. . . . .
19 Signature of Petitioner	Date
20 . . . . .	. . . . .
21 Signature of Petitioner's Attorney if	Date
22 Petitioner is Represented by Counsel	

23 APPENDIX A:

24 People whose name and address must be listed in subsection  
25 (4) of this petition if they are not the petitioner:

26 The minor, if the minor is twelve years of age or older;

27 Each parent of the minor or, if there are none, the adult  
28 nearest in kinship that can be found;

29 An adult with whom the minor resides;

30 Each person that had primary care or custody of the minor for  
31 at least sixty days during the two years immediately before the  
32 filing of the petition or for at least seven hundred thirty days  
33 during the five years immediately before the filing of the  
34 petition;

35 If the minor is twelve years of age or older, any person  
36 nominated as guardian by the minor;

37 Any person nominated as guardian by a parent of the minor;

38 The grandparents of the minor;

39 Adult siblings of the minor; and

1 Any current guardian or conservator for the minor appointed  
2 in this state or another jurisdiction.

3 NEW SECTION. **Sec. 603.** PETITION FOR GUARDIANSHIP,  
4 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to  
5 petition for:

6 Guardianship for an adult;

7 Conservatorship for an adult or minor;

8 A protective arrangement instead of guardianship for an  
9 adult; or

10 A protective arrangement instead of conservatorship for an  
11 adult or minor.

12 Petition for Guardianship, Conservatorship, or Protective  
13 Arrangement

14 State of: . . . . .

15 County of: . . . . .

16 Name and address of attorney representing petitioner, if  
17 applicable: . . . . .

18 . . . . .

19 . . . . .

20 Note to petitioner: This form can be used to petition for a  
21 guardian, conservator, or both, or for a protective arrangement  
22 instead of either a guardianship or conservatorship. This form  
23 should not be used to petition for guardianship for a minor.

24 The court may appoint a guardian or order a protective  
25 arrangement instead of guardianship for an adult if the adult  
26 lacks the ability to meet essential requirements for physical  
27 health, safety, or self-care because (1) the adult is unable to  
28 receive and evaluate information or make or communicate decisions  
29 even with the use of supportive services, technological  
30 assistance, and supported decision making, and (2) the adult's  
31 identified needs cannot be met by a less restrictive alternative.

32 The court may appoint a conservator or order a protective  
33 arrangement instead of conservatorship for an adult if (1) the  
34 adult is unable to manage property and financial affairs because  
35 of a limitation in the ability to receive and evaluate  
36 information or make or communicate decisions even with the use of  
37 supportive services, technological assistance, and supported  
38 decision making or the adult is missing, detained, or unable to  
39 return to the United States, and (2) appointment is necessary to

1 avoid harm to the adult or significant dissipation of the  
2 property of the adult, or to obtain or provide funds or other  
3 property needed for the support, care, education, health, or  
4 welfare of the adult, or of an individual who is entitled to the  
5 adult's support, and protection is necessary or desirable to  
6 provide funds or other property for that purpose.

7 The court may appoint a conservator or order a protective  
8 arrangement instead of conservatorship for a minor if: (1) The  
9 minor owns funds or other property requiring management or  
10 protection that cannot otherwise be provided; or (2) it would be  
11 in the minor's best interests, and the minor has or may have  
12 financial affairs that may be put at unreasonable risk or  
13 hindered because of the minor's age, or appointment is necessary  
14 or desirable to provide funds or other property needed for the  
15 support, care, education, health, or welfare of the minor.

16 The court may also order a protective arrangement instead of  
17 conservatorship that restricts access to an individual or an  
18 individual's property by a person that the court finds: (1)  
19 Through fraud, coercion, duress, or the use of deception and  
20 control, caused, or attempted to cause, an action that would have  
21 resulted in financial harm to the individual or the individual's  
22 property; and (2) poses a serious risk of substantial financial  
23 harm to the individual or the individual's property.

24 (1) Information about the person filing this petition (the  
25 petitioner.)

- 26 (a) Name: . . . . .
- 27 (b) Principal residence: . . . . .
- 28 (c) Current street address (if different): . . . . .
- 29 (d) Relationship to respondent: . . . . .
- 30 (e) Interest in this petition: . . . . .
- 31 (f) Telephone number (optional): . . . . .
- 32 (g) Email address (optional): . . . . .

33 (2) Information about the individual alleged to need  
34 protection (the "respondent"). Provide the following information  
35 to the extent known.

- 36 (a) Name: . . . . .
- 37 (b) Age: . . . . .
- 38 (c) Principal residence: . . . . .
- 39 (d) Current street address (if different): . . . . .



1 (e) If petitioner anticipates respondent moving, or seeks to  
2 move respondent, proposed new address: . . . . .

3 (f) Does respondent need an interpreter, translator, or other  
4 form of support to communicate with the court or understand court  
5 proceedings? If so, please explain: . . . . .

6 . . . . .

7 (g) Telephone number (optional): . . . . .

8 (h) Email address (optional): . . . . .

9 (3) People who are required to be notified of this petition.  
10 State the name and address of the people listed in Appendix A.

11 . . . . .

12 . . . . .

13 (4) Existing agents. State the name and address of any person  
14 appointed as an agent under a power of attorney for finances or  
15 power of attorney for health care, or who has been appointed as  
16 the individual's representative for payment of benefits.

17 . . . . .

18 . . . . .

19 (5) Action requested. State whether petitioner is seeking  
20 appointment of a guardian, a conservator, or a protective  
21 arrangement instead of an appointment.

22 . . . . .

23 . . . . .

24 (6) Order requested or appointment requested. If seeking a  
25 protective arrangement instead of a guardianship or  
26 conservatorship, state the transaction or other action you want  
27 the court to order. If seeking appointment of a guardian or  
28 conservator, state the powers petitioner requests the court grant  
29 to a guardian or conservator.

30 . . . . .

31 . . . . .

32 (7) State why the appointment or protective arrangement  
33 sought is necessary. Include a description of the nature and  
34 extent of respondent's alleged need.

35 . . . . .

36 . . . . .

37 (8) State all less restrictive alternatives to meeting  
38 respondent's alleged need that have been considered or  
39 implemented. Less restrictive alternatives could include  
40 supported decision making, technological assistance, or the

1 appointment of an agent by respondent including appointment under  
2 a power of attorney for health care or power of attorney for  
3 finances. If no alternative has been considered or implemented,  
4 state the reason why not.

5 . . . . .  
6 . . . . .

7 (9) Explain why less restrictive alternatives will not meet  
8 respondent's alleged need.

9 . . . . .  
10 . . . . .

11 (10) Provide a general statement of respondent's property and  
12 an estimate of its value. Include any real property such as a  
13 house or land, insurance or pension, and the source and amount of  
14 any other anticipated income or receipts. As part of this  
15 statement, indicate, if known, how the property is titled (for  
16 example, is it jointly owned?).

17 . . . . .  
18 . . . . .

19 (11) For a petition seeking appointment of a conservator.  
20 (Skip this section if not asking for appointment of a  
21 conservator.)

22 (a) If seeking appointment of a conservator with all powers  
23 permissible under this state's law, explain why appointment of a  
24 conservator with fewer powers (i.e., a "limited conservatorship")  
25 or other protective arrangement instead of conservatorship will  
26 not meet the individual's alleged needs.

27 . . . . .  
28 . . . . .

29 (b) If seeking a limited conservatorship, state the property  
30 petitioner requests be placed under the conservator's control and  
31 any proposed limitation on the conservator's powers and duties.

32 . . . . .  
33 . . . . .

34 (c) State the name and address of any proposed conservator  
35 and the reason the proposed conservator should be selected.

36 . . . . .  
37 . . . . .

38 (d) If respondent is twelve years of age or older, state the  
39 name and address of any person respondent nominates as  
40 conservator.

1 . . . . .  
2 . . . . .  
3 (e) If alleging a limitation in respondent's ability to  
4 receive and evaluate information, provide a brief description of  
5 the nature and extent of respondent's alleged limitation.

6 . . . . .  
7 . . . . .  
8 (f) If alleging that respondent is missing, detained, or  
9 unable to return to the United States, state the relevant  
10 circumstances, including the time and nature of the disappearance  
11 or detention and a description of any search or inquiry  
12 concerning respondent's whereabouts.

13 . . . . .  
14 . . . . .  
15 (12) For a petition seeking appointment of a guardian. (Skip  
16 this section if not asking for appointment of a guardian.)

17 (a) If seeking appointment of a guardian with all powers  
18 permissible under this state's law, explain why appointment of a  
19 guardian with fewer powers (i.e., a "limited guardianship") or  
20 other protective arrangement instead of guardianship will not  
21 meet the individual's alleged needs.

22 . . . . .  
23 . . . . .  
24 (b) If seeking a limited guardianship, state the powers  
25 petitioner requests be granted to the guardian.

26 . . . . .  
27 . . . . .  
28 (c) State the name and address of any proposed guardian and  
29 the reason the proposed guardian should be selected.

30 . . . . .  
31 . . . . .  
32 (d) State the name and address of any person nominated as  
33 guardian by respondent, or, in a will or other signed writing or  
34 other record, by respondent's parent or spouse or domestic  
35 partner.

36 . . . . .  
37 . . . . .  
38 (13) Attorney. If petitioner, respondent, or, if respondent  
39 is a minor, respondent's parent is represented by an attorney in

1 this matter, state the name, telephone number, email address, and  
2 address of the attorney(s).

3 . . . . .  
4 . . . . .

5 SIGNATURE

6 . . . . .  
7 Signature of Petitioner Date  
8 . . . . .  
9 Signature of Petitioner's Attorney if Date  
10 Petitioner is Represented by Counsel

11 APPENDIX A:

12 People whose name and address must be listed in subsection  
13 (3) of this petition, if they are not the petitioner.

14 Respondent's spouse or domestic partner, or if respondent has  
15 none, any adult with whom respondent has shared household  
16 responsibilities in the past six months;

17 Respondent's adult children, or, if respondent has none,  
18 respondent's parents and adult siblings, or if respondent has  
19 none, one or more adults nearest in kinship to respondent who can  
20 be found with reasonable diligence;

21 Respondent's adult stepchildren whom respondent actively  
22 parented during the stepchildren's minor years and with whom  
23 respondent had an ongoing relationship within two years of this  
24 petition;

25 Any person responsible for the care or custody of respondent;

26 Any attorney currently representing respondent;

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

29 Any current guardian or conservator for respondent appointed  
30 in this state or another jurisdiction;

31 Any trustee or custodian of a trust or custodianship of which  
32 respondent is a beneficiary;

33 Any veterans administration fiduciary for respondent;

34 Any person respondent has designated as agent under a power  
35 of attorney for finances;

36 Any person respondent has designated as agent under a power  
37 of attorney for health care;

38 Any person known to have routinely assisted the individual  
39 with decision making in the previous six months;

1 Any person respondent nominates as guardian or conservator;  
2 and

3 Any person nominated as guardian by respondent's parent or  
4 spouse or domestic partner in a will or other signed writing or  
5 other record.

6 NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT  
7 TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify  
8 an adult subject to guardianship or conservatorship of the adult's  
9 rights under sections 311 and 412 of this act.

### 10 **Notification of Rights**

11 You are getting this notice because a guardian, conservator,  
12 or both have been appointed for you. It tells you about some  
13 important rights you have. It does not tell you about all your  
14 rights. If you have questions about your rights, you can ask an  
15 attorney or another person, including your guardian or  
16 conservator, to help you understand your rights.

#### 17 **General rights:**

18 You have the right to exercise any right the court has not  
19 given to your guardian or conservator.

20 You also have the right to ask the court to:

21 End your guardianship, conservatorship, or both;

22 Increase or decrease the powers granted to your guardian,  
23 conservator, or both;

24 Make other changes that affect what your guardian or  
25 conservator can do or how they do it; and

26 Replace the person that was appointed with someone else.

27 You also have a right to hire an attorney to help you do any  
28 of these things.

#### 29 **Additional rights for persons for whom a guardian has been** 30 **appointed:**

31 As an adult subject to guardianship, you have a right to:

32 (1) Be involved in decisions affecting you, including  
33 decisions about your care, where you live, your activities, and  
34 your social interactions, to the extent reasonably feasible;

35 (2) Be involved in decisions about your health care to the  
36 extent reasonably feasible, and to have other people help you  
37 understand the risks and benefits of health care options;

1 (3) Be notified at least fourteen days in advance of a change  
2 in where you live or a permanent move to a nursing home, mental  
3 health facility, or other facility that places restrictions on  
4 your ability to leave or have visitors, unless the guardian has  
5 proposed this change in the guardian's plan or the court has  
6 expressly authorized it;

7 (4) Ask the court to prevent your guardian from changing  
8 where you live or selling or surrendering your primary dwelling  
9 by following the appropriate process for objecting to such a move  
10 in compliance with section 314(5) of this act;

11 (5) Vote and get married unless the court order appointing  
12 your guardian states that you cannot do so;

13 (6) Receive a copy of your guardian's report and your  
14 guardian's plan; and

15 (7) Communicate, visit, or interact with other people (this  
16 includes the right to have visitors, to make and receive  
17 telephone calls, personal mail, or electronic communications)  
18 unless:

19 (a) Your guardian has been authorized by the court by  
20 specific order to restrict these communications, visits, or  
21 interactions;

22 (b) A protective order is in effect that limits contact  
23 between you and other people; or

24 (c) Your guardian has good cause to believe the restriction  
25 is needed to protect you from significant physical,  
26 psychological, or financial harm and the restriction is for not  
27 more than seven business days if the person has a family or  
28 preexisting social relationship with you or not more than sixty  
29 days if the person does not have that kind of relationship with  
30 you.

31 **Additional rights for persons for whom a conservator has been**  
32 **appointed:**

33 As an adult subject to conservatorship, you have a right to:

34 Participate in decisions about how your property is managed  
35 to the extent feasible; and

36 Receive a copy of your conservator's inventory, report, and  
37 plan.

38 **ARTICLE 7**

39 **MISCELLANEOUS PROVISIONS**

1        NEW SECTION.    **Sec. 701.**    REPEALS. The following acts or parts of  
2 acts are each repealed:

3        (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977  
4 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

5        (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c  
6 312 s 2;

7        (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—  
8 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,  
9 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267  
10 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c  
11 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

12        (4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312  
13 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c  
14 145 s 11.88.020;

15        (5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s  
16 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2,  
17 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965  
18 c 145 s 11.88.030;

19        (6) RCW 11.88.040 (Notice and hearing, when required—Service—  
20 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c  
21 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95  
22 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

23        (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical  
24 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995  
25 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &  
26 1975 1st ex.s. c 95 s 7;

27        (8) RCW 11.88.080 (Guardians nominated by will or durable power  
28 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &  
29 1965 c 145 s 11.88.080;

30        (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—  
31 Qualifications—Notice of and statement by guardian ad litem—Hearing  
32 and notice—Attorneys' fees and costs—Registry—Duties—Report—  
33 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,  
34 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977  
35 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

36        (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c  
37 124 s 10;

38        (11) RCW 11.88.095 (Disposition of guardianship petition) and  
39 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

- 1 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;
- 2 (13) RCW 11.88.100 (Oath and bond of guardian or limited  
3 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977  
4 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;
- 5 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s  
6 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;
- 7 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,  
8 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s  
9 11.88.107;
- 10 (16) RCW 11.88.110 (Law on executors' and administrators' bonds  
11 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;
- 12 (17) RCW 11.88.120 (Modification or termination of guardianship—  
13 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c  
14 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c  
15 145 s 11.88.120;
- 16 (18) RCW 11.88.125 (Standby limited guardian or limited guardian)  
17 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,  
18 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st  
19 ex.s. c 95 s 6;
- 20 (19) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of  
21 guardianship) and 2011 c 329 s 6;
- 22 (20) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990  
23 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;
- 24 (21) RCW 11.88.140 (Termination of guardianship or limited  
25 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,  
26 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &  
27 1965 c 145 s 11.88.140;
- 28 (22) RCW 11.88.150 (Administration of deceased incapacitated  
29 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c  
30 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;
- 31 (23) RCW 11.88.160 (Guardianships involving veterans) and 1990 c  
32 122 s 13;
- 33 (24) RCW 11.88.170 (Guardianship courthouse facilitator program)  
34 and 2015 c 295 s 1;
- 35 (25) RCW 11.88.900 (Construction—Chapter applicable to state  
36 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;
- 37 (26) RCW 11.92.010 (Guardians or limited guardians under court  
38 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &  
39 1965 c 145 s 11.92.010;



1 (27) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c  
2 95 s 19, & 1965 c 145 s 11.92.035;

3 (28) RCW 11.92.040 (Duties of guardian or limited guardian in  
4 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985  
5 c 30 s 9;

6 (29) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c  
7 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

8 (30) RCW 11.92.050 (Intermediate accounts or reports—Hearing—  
9 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st  
10 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

11 (31) RCW 11.92.053 (Settlement of estate upon termination) and  
12 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s  
13 11.92.053;

14 (32) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s  
15 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

16 (33) RCW 11.92.060 (Guardian to represent incapacitated person—  
17 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975  
18 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

19 (34) RCW 11.92.090 (Sale, exchange, lease, or mortgage of  
20 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145  
21 s 11.92.090;

22 (35) RCW 11.92.096 (Guardian access to certain held assets) and  
23 1991 c 289 s 13;

24 (36) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975  
25 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

26 (37) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,  
27 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

28 (38) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8  
29 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s  
30 11.92.115;

31 (39) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c  
32 95 s 28 & 1965 c 145 s 11.92.120;

33 (40) RCW 11.92.125 (Broker's fee and closing expenses—Sale,  
34 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s  
35 15 & 1965 c 145 s 11.92.125;

36 (41) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s  
37 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

1 (42) RCW 11.92.140 (Court authorization for actions regarding  
2 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s  
3 32, 1990 c 122 s 32, & 1985 c 30 s 10;

4 (43) RCW 11.92.150 (Request for special notice of proceedings)  
5 and 1990 c 122 s 33 & 1985 c 30 s 11;

6 (44) RCW 11.92.160 (Citation for failure to file account or  
7 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s  
8 11.92.160;

9 (45) RCW 11.92.170 (Removal of property of nonresident  
10 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,  
11 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

12 (46) RCW 11.92.180 (Compensation and expenses of guardian or  
13 limited guardian—Attorney's fees—Department of social and health  
14 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994  
15 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,  
16 & 1965 c 145 s 11.92.180;

17 (47) RCW 11.92.185 (Concealed or embezzled property) and 1990 c  
18 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

19 (48) RCW 11.92.190 (Detention of person in residential placement  
20 facility against will prohibited—Effect of court order—Service of  
21 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c  
22 249 s 11, & 1977 ex.s. c 309 s 14; and

23 (49) RCW 11.92.195 (Incapacitated persons—Right to associate with  
24 persons of their choosing) and 2017 c 268 s 1.

25 NEW SECTION. **Sec. 702.** UNIFORMITY OF APPLICATION AND  
26 CONSTRUCTION. In applying and construing this uniform act,  
27 consideration must be given to the need to promote uniformity of the  
28 law with respect to its subject matter among states that enact it.

29 NEW SECTION. **Sec. 703.** RELATION TO ELECTRONIC SIGNATURES IN  
30 GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or  
31 supersedes the electronic signatures in global and national commerce  
32 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or  
33 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or  
34 authorize electronic delivery of any of the notices described in  
35 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

36 NEW SECTION. **Sec. 704.** APPLICABILITY. This chapter applies to:

1 (1) A proceeding for appointment of a guardian or conservator or  
2 for a protective arrangement instead of guardianship or  
3 conservatorship commenced after the effective date of this section;  
4 and

5 (2) A guardianship, conservatorship, or protective arrangement  
6 instead of a guardianship or conservatorship in existence on the  
7 effective date of this section unless the court finds application of  
8 a particular provision of this act would substantially interfere with  
9 the effective conduct of the proceeding or prejudice the rights of a  
10 party, in which case the particular provision of this act does not  
11 apply and the superseded law applies.

12 NEW SECTION. **Sec. 705.** SEVERABILITY. If any provision of this  
13 act or its application to any person or circumstance is held invalid,  
14 the remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 706.** Sections 101 through 704 of this act  
17 constitute a new chapter in Title 11 RCW.

18 NEW SECTION. **Sec. 707.** EFFECTIVE DATE. This act takes effect  
19 January 1, 2020.

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