
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0023.2/19 2nd draft

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) "Professional guardian or conservator" means a guardian or
27 conservator appointed under this chapter who is not a member of the
28 incapacitated person's family and who charges fees for carrying out
29 the duties of court-appointed guardian or conservator of three or
30 more incapacitated persons.

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

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

34 (28) "Protective arrangement instead of guardianship" means a
35 court order entered under section 502 of this act.

36 (29) "Protective arrangement under article 5 of this chapter"
37 means a court order entered under section 502 or 503 of this act.

38 (30) "Record," used as a noun, means information that is
39 inscribed on a tangible medium or that is stored in an electronic or
40 other medium and is retrievable in perceivable form.

1 (31) "Respondent" means an individual for whom appointment of a
2 guardian or conservator or a protective arrangement instead of
3 guardianship or conservatorship is sought.

4 (32) "Sign" means, with present intent to authenticate or adopt a
5 record:

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

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

9 (33) "Standby guardian" means a person appointed by the court
10 under section 208 of this act.

11 (34) "State" means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 territory or insular possession subject to the jurisdiction of the
14 United States. The term includes a federally recognized Indian tribe.

15 (35) "Supported decision making" means assistance from one or
16 more persons of an individual's choosing in understanding the nature
17 and consequences of potential personal and financial decisions, which
18 enables the individual to make the decisions, and in communicating a
19 decision once made if consistent with the individual's wishes.

20 (36) "Visitor" means the person appointed by the court pursuant
21 to section 304(1) or 405(1) of this act.

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

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

32 (2) The superior court of each county has jurisdiction over a
33 guardianship, conservatorship, or protective arrangement under
34 article 5 of this chapter for an adult as provided in the uniform
35 adult guardianship and protective proceedings jurisdiction act
36 (chapter 11.90 RCW).

37 (3) After notice is given in a proceeding for a guardianship,
38 conservatorship, or protective arrangement under article 5 of this

1 chapter and until termination of the proceeding, the court in which
2 the petition is filed has:

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

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

9 (c) Nonexclusive jurisdiction to determine the validity of a
10 claim against the respondent or property of the respondent or a
11 question of title concerning the property; and

12 (d) If a guardian or conservator is appointed, exclusive
13 jurisdiction over issues related to administration of the
14 guardianship or conservatorship.

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

20 NEW SECTION. **Sec. 105.** TRANSFER OF PROCEEDING. (1) This section
21 does not apply to a guardianship or conservatorship for an adult that
22 is subject to the transfer provisions of the uniform adult
23 guardianship and protective proceedings jurisdiction act (chapter
24 11.90 RCW).

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

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

37 (4) A guardian or conservator appointed in another state or
38 country may petition the court for appointment as a guardian or
39 conservator in this state for the same individual if jurisdiction in

1 this state is or will be established. The appointment may be made on
2 proof of appointment in the other state or foreign country and
3 presentation of a certified copy of the part of the court record in
4 the other state or country specified by the court in this state.

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

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

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

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

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

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

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

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

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

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

34 (a) The county in which the respondent resides, whether or not a
35 guardian has been appointed in another county or other jurisdiction;
36 or

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

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

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

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

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

17 NEW SECTION. **Sec. 108.** LETTERS OF OFFICE. (1) Subject to
18 subsection (3) of this section, the court shall issue letters of
19 office to a guardian on filing by the guardian of an acceptance of
20 appointment.

21 (2) Subject to subsection (3) of this section, the court shall
22 issue letters of office to a conservator on filing by the conservator
23 of an acceptance of appointment and filing of any required bond or
24 compliance with any other asset protection arrangement required by
25 the court.

26 (3)(a) Before letters of office are issued, each guardian,
27 limited guardian, or conservator must take and subscribe an oath and
28 file a bond, with sureties to be approved by the court, payable to
29 the state, in such sum as the court may fix, taking into account the
30 character of the assets on hand or anticipated and the income to be
31 received and disbursements to be made, and such bond must be
32 conditioned substantially as follows:

33 The condition of this obligation is such, that if the above bound
34 A.B., who has been appointed guardian, limited guardian, or
35 conservator for C.D., shall faithfully discharge the office and trust
36 of such guardian, limited guardian, or conservator according to law
37 and shall render a fair and just account of his or her guardianship,
38 limited guardianship, or conservatorship to the superior court of the

1 county of, from time to time as he or she shall thereto
2 be required by such court, and comply with all orders of the court,
3 lawfully made, relative to the goods, chattels, moneys, care,
4 management, and education of such incapacitated person, or his or her
5 property, and render and pay to such incapacitated person all moneys,
6 goods, chattels, title papers, and effects which may come into the
7 hands or possession of such guardian, limited guardian, or
8 conservator, at such time and in such manner as the court may order,
9 then this obligation is void, otherwise it remains in effect.

10 (b) The bond must be for the use of the incapacitated person, and
11 does not become void upon the first recovery, but may be put in suit
12 from time to time against all or any one of the obligors, in the name
13 and for the use and benefit of any person entitled by the breach
14 thereof, until the whole penalty is recovered thereon. The court may
15 require an additional bond whenever for any reason it appears to the
16 court that an additional bond should be given.

17 (4) Limitations on the powers of a guardian or conservator or on
18 the property subject to conservatorship must be stated on the letters
19 of office.

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

27 NEW SECTION. **Sec. 109.** GUARDIANSHIP/CONSERVATOR SUMMARY. Every
28 court order appointing a full or limited guardian or conservator of
29 the person or estate and every court order approving accounts or
30 reports filed by a guardian or limited guardian must include a
31 guardianship/conservatorship summary placed directly below the case
32 caption or on a separate cover page in the following form, or a
33 substantially similar form, containing the following information:

34 **GUARDIANSHIP/CONSERVATORSHIP SUMMARY**

35 Date Guardian/

36 Conservator Appointed:

1 Due Date for Report and
 2 Accounting:
 3 Date of Next Review:
 4 Letters Expire On:
 5 Bond Amount: \$.
 6 Restricted Account
 7 Agreements Required:
 8 Due Date for Inventory, if
 9 applicable:
 10 Due Date for Care Plan, if
 11 applicable:

12

Incapacitated Person (IP)	Guardian/Conservator of: [] Estate [] Person
Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

19

Interested Parties	Address	Relation to IP

26 NEW SECTION. **Sec. 110.** EFFECT OF ACCEPTANCE OF APPOINTMENT. On
 27 acceptance of appointment, a guardian or conservator submits to
 28 personal jurisdiction of the court in this state in any proceeding
 29 relating to the guardianship or conservatorship.

30 NEW SECTION. **Sec. 111.** CO-GUARDIAN—CO-CONSERVATOR. (1) The
 31 court at any time may appoint a co-guardian or co-conservator to
 32 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. 112.** 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. 113.** 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. 114.** NOTICE OF HEARING GENERALLY. (1) Except
8 as otherwise provided in sections 203, 208, 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. 115.** 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. 116.** 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. 117.** 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. 118.** 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. 119.** QUALIFICATIONS. (1) Any suitable person
2 over the age of eighteen years, or any parent under the age of
3 eighteen years or, if the petition is for appointment of a
4 professional guardian or conservator, any individual or guardianship
5 or conservatorship service that meets any certification requirements
6 established by the administrator for the courts, may, if not
7 otherwise disqualified, be appointed guardian, limited guardian, or
8 conservator of the person and/or the estate of an incapacitated
9 person. A financial institution subject to the jurisdiction of the
10 department of financial institutions and authorized to exercise trust
11 powers, and a federally chartered financial institution when
12 authorized to do so, may act as a guardian or conservator of the
13 estate of an incapacitated person without having to meet the
14 certification requirements established by the administrator for the
15 courts. No person is qualified to serve as a guardian or conservator
16 who is:

17 (a) Under eighteen years of age except as otherwise provided
18 herein;

19 (b) Of unsound mind;

20 (c) Convicted of a felony or of a misdemeanor involving moral
21 turpitude;

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

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

28 (f) A person whom the court finds unsuitable.

29 (2) If a guardian, limited guardian, or conservator is not a
30 certified professional guardian, conservator, or financial
31 institution authorized under this section, the guardian, limited
32 guardian, or conservator must complete any standardized training
33 video or web cast for lay guardians or conservators made available by
34 the administrative office of the courts and the superior court where
35 the petition is filed unless granted a waiver by the court. The
36 training video or web cast must be provided at no cost to the
37 guardian, limited guardian, or conservator.

38 (a) If a petitioner requests the appointment of a specific
39 individual to act as a guardian, limited guardian, or conservator,
40 the petition for guardianship, limited guardianship, or

1 conservatorship must include evidence of the successful completion of
2 the required training video or web cast by the proposed guardian,
3 limited guardian, or conservator. The superior court may defer the
4 completion of the training requirement to a date no later than ninety
5 days after appointment if the petitioner requests expedited
6 appointment due to emergent circumstances.

7 (b) If no person is identified to be appointed guardian, limited
8 guardian, or conservator at the time the petition is filed, then the
9 court must require the completion of the required training video or
10 web cast by a date no later than ninety days after the appointment.

11 NEW SECTION. **Sec. 120.** MULTIPLE NOMINATIONS. If a respondent or
12 other person makes more than one nomination of a guardian or
13 conservator, the latest in time governs.

14 NEW SECTION. **Sec. 121.** COMPENSATION AND EXPENSES—IN GENERAL.

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

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

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

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

32 NEW SECTION. **Sec. 122.** COMPENSATION OF GUARDIAN OR CONSERVATOR.

33 (1) Subject to court approval, a guardian is entitled to reasonable
34 compensation for services as guardian and to reimbursement for room,
35 board, clothing, and other appropriate expenses advanced for the
36 benefit of the individual subject to guardianship. If a conservator,
37 other than the guardian or a person affiliated with the guardian, is

1 appointed for the individual, reasonable compensation and
2 reimbursement to the guardian may be approved and paid by the
3 conservator without court approval.

4 (2) Subject to court approval, a conservator is entitled to
5 reasonable compensation for services and reimbursement for
6 appropriate expenses from the property of the individual subject to
7 conservatorship.

8 (3) In determining reasonable compensation for a guardian or
9 conservator, the court, or a conservator in determining reasonable
10 compensation for a guardian as provided in subsection (1) of this
11 section, shall consider:

12 (a) The necessity and quality of the services provided;

13 (b) The experience, training, professional standing, and skills
14 of the guardian or conservator;

15 (c) The difficulty of the services performed, including the
16 degree of skill and care required;

17 (d) The conditions and circumstances under which a service was
18 performed, including whether the service was provided outside regular
19 business hours or under dangerous or extraordinary conditions;

20 (e) The effect of the services on the individual subject to
21 guardianship or conservatorship;

22 (f) The extent to which the services provided were or were not
23 consistent with the guardian's plan under section 316 of this act or
24 conservator's plan under section 419 of this act; and

25 (g) The fees customarily paid to a person that performs a like
26 service in the community.

27 (4) A guardian or conservator need not use personal funds of the
28 guardian or conservator for the expenses of the individual subject to
29 guardianship or conservatorship.

30 (5) If an individual subject to guardianship or conservatorship
31 seeks to modify or terminate the guardianship or conservatorship or
32 remove the guardian or conservator, the court may order compensation
33 to the guardian or conservator for time spent opposing modification,
34 termination, or removal only to the extent the court determines the
35 opposition was reasonably necessary to protect the interests of the
36 individual subject to guardianship or conservatorship.

37 NEW SECTION. **Sec. 123.** LIABILITY OF GUARDIAN OR CONSERVATOR FOR
38 ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. A
39 guardian or conservator is not personally liable to another person

1 solely because of the guardianship or conservatorship for an act or
2 omission of the individual subject to guardianship or
3 conservatorship.

4 NEW SECTION. **Sec. 124.** PETITION AFTER APPOINTMENT FOR
5 INSTRUCTION OR RATIFICATION. (1) A guardian or conservator may
6 petition the court for instruction concerning fiduciary
7 responsibility or ratification of a particular act related to the
8 guardianship or conservatorship.

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

12 NEW SECTION. **Sec. 125.** THIRD-PARTY ACCEPTANCE OF AUTHORITY OF
13 GUARDIAN OR CONSERVATOR. (1) A person must not recognize the
14 authority of a guardian or conservator to act on behalf of an
15 individual subject to guardianship or conservatorship if:

16 (a) The person has actual knowledge or a reasonable belief that
17 the letters of office of the guardian or conservator are invalid or
18 the conservator or guardian is exceeding or improperly exercising
19 authority granted by the court; or

20 (b) The person has actual knowledge that the individual subject
21 to guardianship or conservatorship is subject to physical or
22 financial abuse, neglect, exploitation, or abandonment by the
23 guardian or conservator or a person acting for or with the guardian
24 or conservator.

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

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

30 (b) The person makes, or has actual knowledge that another person
31 has made, a report to the department of children, youth, and families
32 or the department of social and health services stating a good-faith
33 belief that the individual subject to guardianship or conservatorship
34 is subject to physical or financial abuse, neglect, exploitation, or
35 abandonment by the guardian or conservator or a person acting for or
36 with the guardian or conservator.

37 (3) A person that refuses to accept the authority of a guardian
38 or conservator in accordance with subsection (2) of this section may

1 report the refusal and the reason for refusal to the court. The court
2 on receiving the report shall consider whether removal of the
3 guardian or conservator or other action is appropriate.

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

8 NEW SECTION. **Sec. 126.** USE OF AGENT BY GUARDIAN OR CONSERVATOR.

9 (1) Except as otherwise provided in subsection (3) of this section, a
10 guardian or conservator may delegate a power to an agent which a
11 prudent guardian or conservator of comparable skills could delegate
12 prudently under the circumstances if the delegation is consistent
13 with the guardian's or conservator's fiduciary duties and the
14 guardian's plan under section 316 of this act or the conservator's
15 plan under section 419 of this act.

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

19 (a) Selecting the agent;

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

23 (c) Monitoring the agent's performance and compliance with the
24 delegation; and

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

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

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

32 (a) Exercise reasonable care to comply with the terms of the
33 delegation and use reasonable care in the performance of the power;
34 and

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

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

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

8 NEW SECTION. **Sec. 127.** TEMPORARY SUBSTITUTE GUARDIAN OR
9 CONSERVATOR. (1) The court may appoint a temporary substitute
10 guardian for an individual subject to guardianship for a period not
11 exceeding six months if:

12 (a) A proceeding to remove a guardian for the individual is
13 pending; or

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

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

20 (a) A proceeding to remove a conservator for the individual is
21 pending; or

22 (b) The court finds that a conservator for the individual is not
23 effectively performing the conservator's duties and the welfare of
24 the individual or the conservatorship estate requires immediate
25 action.

26 (3) Except as otherwise ordered by the court, a temporary
27 substitute guardian or temporary substitute conservator appointed
28 under this section has the powers stated in the order of appointment
29 of the guardian or conservator. The authority of the existing
30 guardian or conservator is suspended for as long as the temporary
31 substitute guardian or conservator has authority.

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

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

36 (b) The affected guardian or conservator; and

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

1 (5) The court may remove a temporary substitute guardian or
2 temporary substitute conservator at any time. The temporary
3 substitute guardian or temporary substitute conservator shall make
4 any report the court requires.

5 NEW SECTION. **Sec. 128.** REGISTRATION OF ORDER—EFFECT. (1) If a
6 guardian has been appointed in another state for an individual, and a
7 petition for guardianship for the individual is not pending in this
8 state, the guardian appointed in the other state, after giving notice
9 to the appointing court, may register the guardianship order in this
10 state by filing as a foreign judgment, in a court of an appropriate
11 county of this state, certified copies of the order and letters of
12 office.

13 (2) If a conservator has been appointed in another state for an
14 individual, and a petition for conservatorship for the individual is
15 not pending in this state, the conservator appointed for the
16 individual in the other state, after giving notice to the appointing
17 court, may register the conservatorship in this state by filing as a
18 foreign judgment, in a court of a county in which property belonging
19 to the individual subject to conservatorship is located, certified
20 copies of the order of conservatorship, letters of office, and any
21 bond or other asset protection arrangement required by the court.

22 (3) On registration under this section of a guardianship or
23 conservatorship order from another state, the guardian or conservator
24 may exercise in this state all powers authorized in the order except
25 as prohibited by this chapter and law of this state other than this
26 chapter. If the guardian or conservator is not a resident of this
27 state, the guardian or conservator may maintain an action or
28 proceeding in this state subject to any condition imposed by this
29 state on an action or proceeding by a nonresident party.

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

33 NEW SECTION. **Sec. 129.** GRIEVANCE AGAINST GUARDIAN OR
34 CONSERVATOR. (1) An individual who is subject to guardianship or
35 conservatorship, or person interested in the welfare of an individual
36 subject to guardianship or conservatorship, that reasonably believes
37 the guardian or conservator is breaching the guardian's or
38 conservator's fiduciary duty or otherwise acting in a manner

1 inconsistent with this chapter may file a grievance in a record with
2 the court.

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

5 (a) Shall review the grievance and, if necessary to determine the
6 appropriate response, court records related to the guardianship or
7 conservatorship;

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

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

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

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

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

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

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

22 (ii) Appointing a guardian ad litem;

23 (iii) Appointing an attorney for the individual subject to
24 guardianship or conservatorship; or

25 (iv) Holding a hearing.

26 (3) The court may decline to act under subsection (2) of this
27 section if a similar grievance was filed within the six months
28 preceding the filing of the current grievance and the court followed
29 the procedures of subsection (2) of this section in considering the
30 earlier grievance.

31 (4) In any court action under this section that involves a
32 professional guardian, the court must direct the clerk of the court
33 to send a copy of the order entered under this section to the
34 certified professional guardianship board.

35 NEW SECTION. **Sec. 130.** DELEGATION BY PARENT. Except as
36 otherwise provided in RCW 11.125.410, a parent of a minor, by a power
37 of attorney, may delegate to another person for a period not
38 exceeding nine months any of the parent's powers regarding care,

1 custody, or property of the minor, other than power to consent to
2 marriage or adoption.

3 **ARTICLE 2**
4 **GUARDIANSHIP OF MINOR**

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

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

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

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

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

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

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

25 (a) The minor's name, age, principal residence, current street
26 address, if different, and, if different, address of the dwelling in
27 which it is proposed the minor will reside if the appointment is
28 made;

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

30 (c) The name and address, if known, of each person that had
31 primary care or custody of the minor for at least sixty days during
32 the two years immediately before the filing of the petition or for at
33 least seven hundred thirty days during the five years immediately
34 before the filing of the petition;

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

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

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

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

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

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

14 (j) Whether any other proceeding concerning the care or custody
15 of the minor is pending in any court in this state or another
16 jurisdiction.

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

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

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

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

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

29 (iv) Each person that had primary care or custody of the minor
30 for at least sixty days during the two years immediately before the
31 filing of the petition or for at least seven hundred thirty days
32 during the five years immediately before the filing of the petition;
33 and

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

36 (b) Give notice under section 114 of this act of the date, time,
37 and place of the hearing, together with a copy of the petition, to:

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

- 1 (ii) Any nominee of a parent;
2 (iii) Each grandparent and adult sibling of the minor;
3 (iv) Any guardian or conservator acting for the minor in any
4 jurisdiction; and
5 (v) Any other person the court determines.

6 (2) Notice required by subsection (1) of this section must
7 include a statement of the right to request appointment of an
8 attorney for the minor or object to appointment of a guardian and a
9 description of the nature, purpose, and consequences of appointment
10 of a guardian.

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

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

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

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

23 (a) Interview the petitioner and the minor;

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

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

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

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

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

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

36 (2) An attorney appointed under subsection (1) of this section
37 shall:

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

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

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

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

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

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

14 (a) The parent objects to appointment of a guardian for the
15 minor;

16 (b) The court determines that counsel is needed to ensure that
17 consent to appointment of a guardian is informed; or

18 (c) The court otherwise determines the parent needs
19 representation.

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

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

30 (b) There is no practicable way for the minor to attend the
31 hearing;

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

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

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

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

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

6 NEW SECTION. **Sec. 206.** CUSTODY ORDERS—BACKGROUND INFORMATION TO
7 BE CONSULTED. (1) Before granting any order regarding the custody of
8 a child under this chapter, the court must consult the judicial
9 information system, if available, to determine the existence of any
10 information and proceedings that are relevant to the placement of the
11 child.

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

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

15 (b) Require the petitioner to provide the results of an
16 examination of state and national criminal identification data
17 provided by the Washington state patrol criminal identification
18 system as described in chapter 43.43 RCW for the petitioner and adult
19 members of the petitioner's household.

20 NEW SECTION. **Sec. 207.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE
21 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section
22 203 of this act, the court may appoint a guardian for a minor, if
23 appointment is proper under section 201 of this act, dismiss the
24 proceeding, or take other appropriate action consistent with this
25 chapter or law of this state other than this chapter.

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

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

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

36 (c) If a guardian is not appointed under (a) or (b) of this
37 subsection, the court shall appoint the person nominated by the minor

1 if the minor is twelve years of age or older unless the court finds
2 that appointment is contrary to the best interest of the minor. In
3 that case, the court shall appoint as guardian a person whose
4 appointment is in the best interest of the minor.

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

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

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

20 (a) The guardian has delegated custody of the minor subject to
21 guardianship;

22 (b) The court has modified or limited the powers of the guardian;
23 or

24 (c) The court has removed the guardian.

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

28 NEW SECTION. **Sec. 208.** STANDBY GUARDIAN FOR MINOR. (1) A
29 standby guardian appointed under this section may act as guardian,
30 with all duties and powers of a guardian under sections 210 and 211
31 of this act, when no parent of the minor is willing or able to
32 exercise the duties and powers granted to the guardian.

33 (2) A parent of a minor, in a signed record, may nominate a
34 person to be appointed by the court as standby guardian for the
35 minor. The parent, in a signed record, may state desired limitations
36 on the powers to be granted the standby guardian. The parent, in a
37 signed record, may revoke or amend the nomination at any time before
38 the court appoints a standby guardian.

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

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

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

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

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

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

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

14 (ii) Each parent of the minor;

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

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

17 (b) Include with the copy of the petition served under (a) of
18 this subsection a statement of the right to request appointment of an
19 attorney for the minor or to object to appointment of the standby
20 guardian, and a description of the nature, purpose, and consequences
21 of appointment of a standby guardian.

22 (6) A person entitled to notice under subsection (5) of this
23 section, not later than sixty days after service of the petition and
24 statement, may object to appointment of the standby guardian by
25 filing an objection with the court and giving notice of the objection
26 to each other person entitled to notice under subsection (5) of this
27 section.

28 (7) If an objection is filed under subsection (6) of this
29 section, the court shall hold a hearing to determine whether a
30 standby guardian should be appointed and, if so, the person that
31 should be appointed. If no objection is filed, the court may make the
32 appointment.

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

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

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

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

5 (a) Interview the petitioner and the minor;

6 (b) If the petitioner alleges the parent cannot be located and
7 served, ascertain whether the parent cannot be located with due
8 diligence; and

9 (c) Investigate any other matter relating to the petition the
10 court directs.

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

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

16 (b) If the parents have nominated different persons to serve as
17 standby guardian, the court shall appoint the nominee whose
18 appointment is in the best interest of the minor, unless the court
19 finds that appointment of none of the nominees is in the best
20 interest of the minor.

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

24 (a) The standby guardian assumes the duties and powers of the
25 guardian;

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

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

28 (d) The court removes the guardian.

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

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

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

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

38 (13) A person that receives notice under subsection (12) of this
39 section or any other person interested in the welfare of the minor
40 may file with the court an objection to the standby guardian's

1 assumption of duties and powers of a guardian. The court shall hold a
2 hearing if the objection supports a reasonable belief that the
3 conditions for assumption of duties and powers have not been
4 satisfied.

5 NEW SECTION. **Sec. 209.** EMERGENCY GUARDIAN FOR MINOR. (1) On its
6 own, or on petition by a person interested in a minor's welfare, the
7 court may appoint an emergency guardian for the minor if the court
8 finds:

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

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

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

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

- 23 (a) The minor, if the minor is twelve years of age or older;
- 24 (b) Any attorney appointed under section 204 of this act;
- 25 (c) Each parent of the minor;
- 26 (d) Any person, other than a parent, having care or custody of
27 the minor; and
- 28 (e) Any other person the court determines.

29 (4) The court may appoint an emergency guardian for a minor
30 without notice under subsection (3) of this section and a hearing
31 only if the court finds from an affidavit or testimony that the
32 minor's health, safety, or welfare will be substantially harmed
33 before a hearing with notice on the appointment can be held. If the
34 court appoints an emergency guardian without notice to an
35 unrepresented minor or the attorney for a represented minor, notice
36 of the appointment must be given not later than forty-eight hours
37 after the appointment to the individuals listed in subsection (3) of
38 this section. Not later than five days after the appointment, the
39 court shall hold a hearing on the appropriateness of the appointment.

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

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

7 NEW SECTION. **Sec. 210.** DUTIES OF GUARDIAN FOR MINOR. (1) A
8 guardian for a minor is a fiduciary. Except as otherwise limited by
9 the court, a guardian for a minor has the duties and responsibilities
10 of a parent regarding the minor's support, care, education, health,
11 safety, and welfare. A guardian shall act in the minor's best
12 interest and exercise reasonable care, diligence, and prudence.

13 (2) A guardian for a minor shall:

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 211.** POWERS OF GUARDIAN FOR MINOR. (1) Except
2 as otherwise limited by court order, a guardian of a minor has the
3 powers a parent otherwise would have regarding the minor's support,
4 care, education, health, safety, and welfare.

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

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

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

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

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

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

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

25 NEW SECTION. **Sec. 212.** REMOVAL OF GUARDIAN FOR MINOR—
26 TERMINATION OF GUARDIANSHIP—APPOINTMENT OF SUCCESSOR. (1)
27 Guardianship under this chapter for a minor terminates:

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

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

33 (i) Termination of the guardianship would be harmful to the
34 minor; and

35 (ii) The minor's interest in the continuation of the guardianship
36 outweighs the interest of any parent of the minor in restoration of
37 the parent's right to make decisions for the minor.

38 (2) A minor subject to guardianship or a person interested in the
39 welfare of the minor may petition the court to terminate the

1 guardianship, modify the guardianship, remove the guardian and
2 appoint a successor guardian, or remove a standby guardian and
3 appoint a different standby guardian.

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

8 (4) The court shall follow the priorities in section 207(2) of
9 this act when selecting a successor guardian for a minor.

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

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

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

22 **ARTICLE 3**

23 **GUARDIANSHIP OF ADULT**

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

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

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

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

36 (b) With appropriate findings, treat the petition as one for a
37 conservatorship under article 4 of this chapter or protective

1 arrangement under article 5 of this chapter, issue any appropriate
2 order, or dismiss the proceeding.

3 (2) The court shall grant a guardian appointed under subsection
4 (1) of this section only those powers necessitated by the
5 demonstrated needs and limitations of the respondent and issue orders
6 that will encourage development of the respondent's maximum self-
7 determination and independence. The court may not establish a full
8 guardianship if a limited guardianship, protective arrangement
9 instead of guardianship, or other less restrictive alternative would
10 meet the needs of the respondent.

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

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

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

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

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

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

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

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

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

39 (ii) Any attorney currently representing the respondent;

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

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

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

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

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

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

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

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

16 (xi) A proposed guardian and the reason the proposed guardian
17 should be selected; and

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

21 (d) The reason a guardianship is necessary, including a brief
22 description of:

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

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

27 (iii) If no protective arrangement instead of guardianship or
28 other less restrictive alternatives have been considered or
29 implemented, the reason they have not been considered or implemented;
30 and

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

34 (e) Whether the petitioner seeks a limited guardianship or full
35 guardianship;

36 (f) If the petitioner seeks a full guardianship, the reason a
37 limited guardianship or protective arrangement instead of
38 guardianship is not appropriate;

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

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

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

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

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

14 (2) A copy of a petition under section 302 of this act and notice
15 of a hearing on the petition must be served personally on the
16 respondent. The notice must inform the respondent of the respondent's
17 rights at the hearing, including the right to an attorney and to
18 attend the hearing. The notice must include a description of the
19 nature, purpose, and consequences of granting the petition. The court
20 may not grant the petition if notice substantially complying with
21 this subsection is not served on the respondent.

22 (3) In a proceeding on a petition under section 302 of this act,
23 the notice required under subsection (2) of this section must be
24 given to the persons required to be listed in the petition under
25 section 302(2) (a) through (c) of this act and any other person
26 interested in the respondent's welfare the court determines. Failure
27 to give notice under this subsection does not preclude the court from
28 appointing a guardian.

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

- 32 (a) The adult subject to guardianship;
- 33 (b) The guardian; and
- 34 (c) Any other person the court determines.

35 NEW SECTION. **Sec. 304.** APPOINTMENT AND ROLE OF VISITOR. (1) On
36 receipt of a petition under section 302 of this act for appointment
37 of a guardian for an adult, the court shall appoint a visitor. The

1 visitor must be an individual with training or experience in the type
2 of abilities, limitations, and needs alleged in the petition.

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

6 (a) Explain to the respondent the substance of the petition, the
7 nature, purpose, and effect of the proceeding, the respondent's
8 rights at the hearing on the petition, and the general powers and
9 duties of a guardian;

10 (b) Determine the respondent's views about the appointment sought
11 by the petitioner, including views about a proposed guardian, the
12 guardian's proposed powers and duties, and the scope and duration of
13 the proposed guardianship;

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

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

20 (3) The visitor appointed under subsection (1) of this section
21 shall:

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

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

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

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

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

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

36 (b) A summary of self-care and independent living tasks the
37 respondent can manage without assistance or with existing supports,
38 could manage with the assistance of appropriate supportive services,
39 technological assistance, or supported decision making, and cannot
40 manage;

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

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

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

9 (d) A statement of the qualifications of the proposed guardian
10 and whether the respondent approves or disapproves of the proposed
11 guardian;

12 (e) A statement whether the proposed dwelling meets the
13 respondent's needs and whether the respondent has expressed a
14 preference as to residence;

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

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

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

23 (i) Any other matter the court directs.

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

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

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

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

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

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

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

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

8 (2) If the court orders an evaluation under subsection (1) of
9 this section, the respondent must be examined by a licensed
10 physician, psychologist, social worker, or other individual appointed
11 by the court who is qualified to evaluate the respondent's alleged
12 cognitive and functional abilities and limitations and will not be
13 advantaged or disadvantaged by a decision to grant the petition or
14 otherwise have a conflict of interest. The individual conducting the
15 evaluation promptly shall file report in a record with the court.
16 Unless otherwise directed by the court, the report must contain:

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

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

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

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

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

27 NEW SECTION. **Sec. 307.** ATTENDANCE AND RIGHTS AT HEARING. (1)
28 Except as otherwise provided in subsection (2) of this section, a
29 hearing under section 303 of this act may not proceed unless the
30 respondent attends the hearing. If it is not reasonably feasible for
31 the respondent to attend a hearing at the location court proceedings
32 typically are held, the court shall make reasonable efforts to hold
33 the hearing at an alternative location convenient to the respondent
34 or allow the respondent to attend the hearing using real-time audio-
35 visual technology.

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

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

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

7 (3) The respondent may be assisted in a hearing under section 303
8 of this act by a person or persons of the respondent's choosing,
9 assistive technology, or an interpreter or translator, or a
10 combination of these supports. If assistance would facilitate the
11 respondent's participation in the hearing, but is not otherwise
12 available to the respondent, the court shall make reasonable efforts
13 to provide it.

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

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

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

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

21 (c) Otherwise participate in the hearing.

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

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

26 (8) Any person may request to participate in a hearing under
27 section 303 of this act. The court may grant the request, with or
28 without a hearing, on determining that the best interest of the
29 respondent will be served. The court may impose appropriate
30 conditions on the person's participation.

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

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

37 (b) Either:

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

39 (ii) The guardianship is terminated.

1 (2) An adult subject to a proceeding for a guardianship, whether
2 or not a guardian is appointed, an attorney designated by the adult,
3 and a person entitled to notice under section 310(5) of this act or a
4 subsequent order are entitled to access court records of the
5 proceeding and resulting guardianship, including the guardian's plan
6 under section 316 of this act and report under section 317 of this
7 act. A person not otherwise entitled to access court records under
8 this subsection for good cause may petition the court for access to
9 court records of the guardianship, including the guardian's report
10 and plan. The court shall grant access if access is in the best
11 interest of the respondent or adult subject to guardianship or
12 furthers the public interest and does not endanger the welfare or
13 financial interests of the adult.

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

17 (a) The court;

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

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

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

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

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

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

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

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

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

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

3 (2) If two or more persons have equal priority under subsection
4 (1) of this section, the court shall select as guardian the person
5 the court considers best qualified. In determining the best qualified
6 person, the court shall consider the person's relationship with the
7 respondent, the person's skills, the expressed wishes of the
8 respondent, the extent to which the person and the respondent have
9 similar values and preferences, and the likelihood the person will be
10 able to perform the duties of a guardian successfully.

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

15 (4) A person that provides paid services to the respondent, or an
16 individual who is employed by a person that provides paid services to
17 the respondent or is the spouse, domestic partner, parent, or child
18 of an individual who provides or is employed to provide paid services
19 to the respondent, may not be appointed as guardian unless:

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

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

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

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

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

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

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

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

9 (2) An adult subject to guardianship retains the right to vote
10 unless the order under subsection (1) of this section includes the
11 statement required by subsection (1)(c) of this section. An adult
12 subject to guardianship retains the right to marry unless the order
13 under subsection (1) of this section includes the findings required
14 by subsection (1)(d) of this section.

15 (3) A court order establishing a full guardianship for an adult
16 must state the basis for granting a full guardianship and include
17 specific findings that support the conclusion that a limited
18 guardianship would not meet the functional needs of the adult subject
19 to guardianship.

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

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

25 (a) Notice of the rights of the adult under section 311(2) of
26 this act;

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

28 (c) Notice that the guardian has delegated:

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

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

31 (iii) The power to make major medical decisions on behalf of the
32 adult;

33 (iv) A power that requires court approval under section 315 of
34 this act; or

35 (v) Substantially all powers of the guardian;

36 (d) Notice that the guardian will be unavailable to visit the
37 adult for more than two months or unavailable to perform the
38 guardian's duties for more than one month;

39 (e) A copy of the guardian's plan under section 316 of this act
40 and the guardian's report under section 317 of this act;

- 1 (f) Access to court records relating to the guardianship;
2 (g) Notice of the death or significant change in the condition of
3 the adult;
4 (h) Notice that the court has limited or modified the powers of
5 the guardian; and
6 (i) Notice of the removal of the guardian.
7 (6) A spouse, domestic partner, and adult children of an adult
8 subject to guardianship are entitled to notice under subsection (5)
9 of this section unless the court determines notice would be contrary
10 to the preferences or prior directions of the adult subject to
11 guardianship or not in the best interest of the adult.

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

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

19 (2) Not later than thirty days after appointment of a guardian
20 under section 309 of this act, the court shall give to the adult
21 subject to guardianship, the guardian, and any other person entitled
22 to notice under section 310(5) of this act or a subsequent order a
23 statement of the rights of the adult subject to guardianship and
24 procedures to seek relief if the adult is denied those rights. The
25 statement must be in at least sixteen-point font, in plain language,
26 and, to the extent feasible, in a language in which the adult subject
27 to guardianship is proficient. The statement must notify the adult
28 subject to guardianship of the right to:

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

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

35 (c) Be involved in health care decision making to the extent
36 reasonably feasible and supported in understanding the risks and
37 benefits of health care options to the extent reasonably feasible;

38 (d) Be notified at least fourteen days before a change in the
39 adult's primary dwelling or permanent move to a nursing home, mental

1 health facility, or other facility that places restrictions on the
2 individual's ability to leave or have visitors unless the change or
3 move is proposed in the guardian's plan under section 316 of this act
4 or authorized by the court by specific order;

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

7 (f) Communicate, visit, or interact with others, including
8 receiving visitors, and making or receiving telephone calls, personal
9 mail, or electronic communications, including through social media,
10 unless:

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

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

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

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

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

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

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

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

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

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

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

38 (2) The duration of authority of an emergency guardian for an
39 adult may not exceed sixty days, and the emergency guardian may

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

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

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

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

21 (i) The respondent;

22 (ii) The respondent's attorney; and

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

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

26 (5) Appointment of an emergency guardian under this section is
27 not a determination that a basis exists for appointment of a guardian
28 under section 301 of this act.

29 (6) The court may remove an emergency guardian appointed under
30 this section at any time. The emergency guardian shall make any
31 report the court requires.

32 NEW SECTION. **Sec. 313.** DUTIES OF GUARDIAN FOR ADULT. (1) A

33 guardian for an adult is a fiduciary. Except as otherwise limited by
34 the court, a guardian for an adult shall make decisions regarding the
35 support, care, education, health, and welfare of the adult subject to
36 guardianship to the extent necessitated by the adult's limitations.

37 (2) A guardian for an adult shall promote the self-determination
38 of the adult and, to the extent reasonably feasible, encourage the
39 adult to participate in decisions, act on the adult's own behalf, and

1 develop or regain the capacity to manage the adult's personal
2 affairs. In furtherance of this duty, the guardian shall:

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

7 (b) To the extent reasonably feasible, identify the values and
8 preferences of the adult and involve the adult in decisions affecting
9 the adult, including decisions about the adult's care, dwelling,
10 activities, or social interactions; and

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

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

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

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

24 (c) Conserve any funds and other property of the adult not
25 expended under (b) of this subsection for the adult's future needs,
26 but if a conservator has been appointed for the adult, pay the funds
27 and other property at least quarterly to the conservator to be
28 conserved for the adult's future needs; and

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

31 (4) In making a decision for an adult subject to guardianship,
32 the guardian shall make the decision the guardian reasonably believes
33 the adult would make if the adult were able unless doing so would
34 unreasonably harm or endanger the welfare or personal or financial
35 interests of the adult. To determine the decision the adult subject
36 to guardianship would make if able, the guardian shall consider the
37 adult's previous or current directions, preferences, opinions,
38 values, and actions, to the extent actually known or reasonably
39 ascertainable by the guardian.

1 (5) If a guardian for an adult cannot make a decision under
2 subsection (4) of this section because the guardian does not know and
3 cannot reasonably determine the decision the adult probably would
4 make if able, or the guardian reasonably believes the decision the
5 adult would make would unreasonably harm or endanger the welfare or
6 personal or financial interests of the adult, the guardian shall act
7 in accordance with the best interests of the adult. In determining
8 the best interests of the adult, the guardian shall consider:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (a) Select a residential setting the guardian believes the adult
19 would select if the adult were able, in accordance with the decision-
20 making standard in section 313 (4) and (5) of this act. If the
21 guardian does not know and cannot reasonably determine what setting
22 the adult subject to guardianship probably would choose if able, or
23 the guardian reasonably believes the decision the adult would make
24 would unreasonably harm or endanger the welfare or personal or
25 financial interests of the adult, the guardian shall choose in
26 accordance with section 313(5) of this act a residential setting that
27 is consistent with the adult's best interest;

28 (b) In selecting among residential settings, give priority to a
29 residential setting in a location that will allow the adult to
30 interact with persons important to the adult and meet the adult's
31 needs in the least restrictive manner reasonably feasible unless to
32 do so would be inconsistent with the decision-making standard in
33 section 313 (4) and (5) of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (c) Take into account:

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

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

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

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

14 (2) A guardian for an adult may not initiate the commitment of
15 the adult to an evaluation and treatment facility except in
16 accordance with the state's procedure for involuntary civil
17 commitment.

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

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

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

27 (c) 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 (i) 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 (ii) 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 NEW SECTION. **Sec. 316.** GUARDIAN'S PLAN. (1) A guardian for an

37 adult, not later than sixty days after appointment and when there is
38 a significant change in circumstances, or the guardian seeks to
39 deviate significantly from the guardian's plan, shall file with the

1 court a plan for the care of the adult. The plan must be based on the
2 needs of the adult and take into account the best interest of the
3 adult as well as the adult's preferences, values, and prior
4 directions, to the extent known to or reasonably ascertainable by the
5 guardian. The guardian shall include in the plan:

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

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

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

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

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

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

20 (g) A statement or list of the amount the guardian proposes to
21 charge for each service the guardian anticipates providing to the
22 adult.

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

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

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

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

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

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

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

15 (b) The living arrangements of the adult during the reporting
16 period;

17 (c) A summary of the supported decision making, technological
18 assistance, medical services, educational and vocational services,
19 and other supports and services provided to the adult and the
20 guardian's opinion as to the adequacy of the adult's care;

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

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

24 (f) The extent to which the adult has participated in decision
25 making;

26 (g) If the adult is living in an evaluation and treatment
27 facility or living in a facility that provides the adult with health
28 care or other personal services, whether the guardian considers the
29 facility's current plan for support, care, treatment, or habilitation
30 consistent with the adult's preferences, values, prior directions,
31 and best interests;

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

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

1 (j) Any business relation the guardian has with a person the
2 guardian has paid or that has benefited from the property of the
3 adult;

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

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

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

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

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

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

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

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

28 (b) The guardianship should continue; and

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

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

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

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

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

39 (d) Consistent with sections 318 and 319 of this act, may hold a
40 hearing to consider removal of the guardian, termination of the

1 guardianship, or a change in the powers granted to the guardian or
2 terms of the guardianship.

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

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

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

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

18 (a) Petition of the adult, guardian, or person interested in the
19 welfare of the adult, which contains allegations that, if true, would
20 support a reasonable belief that removal of the guardian and
21 appointment of a successor guardian may be appropriate, but the court
22 may decline to hold a hearing if a petition based on the same or
23 substantially similar facts was filed during the preceding six
24 months;

25 (b) Communication from the adult, guardian, or person interested
26 in the welfare of the adult which supports a reasonable belief that
27 removal of the guardian and appointment of a successor guardian may
28 be appropriate; or

29 (c) Determination by the court that a hearing would be in the
30 best interest of the adult.

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

34 (4) An adult subject to guardianship who seeks to remove the
35 guardian and have a successor guardian appointed has the right to
36 choose an attorney to represent the adult in this matter. The court
37 shall award reasonable attorneys' fees to the attorney for the adult
38 as provided in section 121 of this act.

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

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

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

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

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

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

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

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

32 (c) A report from a guardian or conservator which indicates that
33 termination or modification may be appropriate because the functional
34 needs of the adult or supports or services available to the adult
35 have changed or a protective arrangement instead of guardianship or
36 other less restrictive alternative for meeting the adult's needs is
37 available; or

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

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

4 (4) On presentation of prima facie evidence for termination of a
5 guardianship for an adult, the court shall order termination unless
6 it is proven that a basis for appointment of a guardian under section
7 301 of this act exists.

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

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

16 (7) An adult subject to guardianship who seeks to terminate or
17 modify the terms of the guardianship has the right to choose an
18 attorney to represent the adult in the matter. The court shall award
19 reasonable attorneys' fees to the attorney for the adult as provided
20 in section 121 of this act.

21 **ARTICLE 4**
22 **CONSERVATORSHIP**

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

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

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

31 (b) Either:

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

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

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

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

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

6 (i) Of a limitation in the adult's ability to receive and
7 evaluate information or make or communicate decisions, even with the
8 use of appropriate supportive services, technological assistance, or
9 supported decision making; or

10 (ii) The adult is missing, detained, or unable to return to the
11 United States;

12 (b) Appointment is necessary to:

13 (i) Avoid harm to the adult or significant dissipation of the
14 property of the adult; or

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

18 (c) The respondent's identified needs cannot be met by a
19 protective arrangement instead of conservatorship or other less
20 restrictive alternatives.

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

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

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

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

31 (b) A person interested in the estate, financial affairs, or
32 welfare of the individual, including a person that would be adversely
33 affected by lack of effective management of property or financial
34 affairs of the individual; or

35 (c) The guardian for the individual.

36 (2) A petition under subsection (1) of this section must state
37 the petitioner's name, principal residence, current street address,
38 if different, relationship to the respondent, interest in the

1 appointment, the name and address of any attorney representing the
2 petitioner, and, to the extent known, the following:

3 (a) The respondent's name, age, principal residence, current
4 street address, if different, and, if different, address of the
5 dwelling in which it is proposed the respondent will reside if the
6 petition is granted;

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

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

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

15 (iii) Adult stepchildren whom the respondent actively parented
16 during the stepchildren's minor years and with whom the respondent
17 had an ongoing relationship during the two years immediately before
18 the filing of the petition;

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

21 (i) A person responsible for the care or custody of the
22 respondent;

23 (ii) Any attorney currently representing the respondent;

24 (iii) The representative payee appointed by the social security
25 administration for the respondent;

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

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

30 (vi) The fiduciary appointed for the respondent by the department
31 of veterans affairs;

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

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

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

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

1 (xi) If the individual for whom a conservator is sought is a
2 minor:

3 (A) An adult not otherwise listed with whom the minor resides;
4 and

5 (B) Each person not otherwise listed that had primary care or
6 custody of the minor for at least sixty days during the two years
7 immediately before the filing of the petition or for at least seven
8 hundred thirty days during the five years immediately before the
9 filing of the petition;

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

13 (e) The reason conservatorship is necessary, including a brief
14 description of:

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

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

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

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

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

28 (f) Whether the petitioner seeks a limited conservatorship or a
29 full conservatorship;

30 (g) If the petitioner seeks a full conservatorship, the reason a
31 limited conservatorship or protective arrangement instead of
32 conservatorship is not appropriate;

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

35 (i) If the petition is for a limited conservatorship, a
36 description of the property to be placed under the conservator's
37 control and any requested limitation on the authority of the
38 conservator;

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

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

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

10 (2) A copy of a petition under section 402 of this act and notice
11 of a hearing on the petition must be served personally on the
12 respondent. If the respondent's whereabouts are unknown or personal
13 service cannot be made, service on the respondent must be made by
14 publication. The notice must inform the respondent of the
15 respondent's rights at the hearing, including the right to an
16 attorney and to attend the hearing. The notice must include a
17 description of the nature, purpose, and consequences of granting the
18 petition. The court may not grant a petition for appointment of a
19 conservator if notice substantially complying with this subsection is
20 not served on the respondent.

21 (3) In a proceeding on a petition under section 402 of this act,
22 the notice required under subsection (2) of this section must be
23 given to the persons required to be listed in the petition under
24 section 402(2) (a) through (c) of this act and any other person
25 interested in the respondent's welfare the court determines. Failure
26 to give notice under this subsection does not preclude the court from
27 appointing a conservator.

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

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

34 (b) The conservator; and

35 (c) Any other person the court determines.

36 NEW SECTION. **Sec. 404.** ORDER TO PRESERVE OR APPLY PROPERTY
37 WHILE PROCEEDING PENDING. While a petition under section 402 of this
38 act is pending, after preliminary hearing and without notice to

1 others, the court may issue an order to preserve and apply property
2 of the respondent as required for the support of the respondent or an
3 individual who is in fact dependent on the respondent. The court may
4 appoint a commissioner to assist in implementing the order.

5 NEW SECTION. **Sec. 405.** APPOINTMENT AND ROLE OF VISITOR. (1) If
6 the respondent in a proceeding to appoint a conservator is a minor,
7 the court may appoint a visitor to investigate a matter related to
8 the petition or inform the minor or a parent of the minor about the
9 petition or a related matter.

10 (2) If the respondent in a proceeding to appoint a conservator is
11 an adult, the court shall appoint a visitor unless the adult is
12 represented by an attorney appointed by the court. The duties and
13 reporting requirements of the visitor are limited to the relief
14 requested in the petition. The visitor must be an individual with
15 training or experience in the type of abilities, limitations, and
16 needs alleged in the petition.

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

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

24 (b) Determine the respondent's views about the appointment sought
25 by the petitioner, including views about a proposed conservator, the
26 conservator's proposed powers and duties, and the scope and duration
27 of the proposed conservatorship;

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

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

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

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

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

1 (c) Investigate whether the respondent's needs could be met by a
2 protective arrangement instead of conservatorship or other less
3 restrictive alternative and, if so, identify the arrangement or other
4 less restrictive alternative; and

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

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

10 (a) A recommendation:

11 (i) Regarding the appropriateness of conservatorship, or whether
12 a protective arrangement instead of conservatorship or other less
13 restrictive alternative for meeting the respondent's needs is
14 available;

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

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

20 (b) A statement of the qualifications of the proposed conservator
21 and whether the respondent approves or disapproves of the proposed
22 conservator;

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

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

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

31 (f) Any other matter the court directs.

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

33 Unless the respondent in a proceeding for appointment of a
34 conservator is represented by an attorney, the court shall appoint an
35 attorney to represent the respondent, regardless of the respondent's
36 ability to pay.

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

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

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

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

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

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

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

12 (c) The court otherwise determines the parent needs
13 representation.

14 NEW SECTION. **Sec. 407.** PROFESSIONAL EVALUATION. (1) At or
15 before a hearing on a petition for conservatorship 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 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 a 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 with
32 regard to the management of the respondent's property and financial
33 affairs;

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

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

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

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

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

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

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

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

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

23 (3) The respondent may be assisted in a hearing under section 403
24 of this act by a person or persons of the respondent's choosing,
25 assistive technology, or an interpreter or translator, or a
26 combination of these supports. If assistance would facilitate the
27 respondent's participation in the hearing, but is not otherwise
28 available to the respondent, the court shall make reasonable efforts
29 to provide it.

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

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

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

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

37 (c) Otherwise participate in the hearing.

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

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

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

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

11 (a) The respondent, the individual subject to conservatorship, or
12 the parent of a minor subject to conservatorship requests the record
13 be sealed; and

14 (b) Either:

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

16 (ii) The conservatorship is terminated.

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

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

34 (a) The court;

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

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

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

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

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

10 (a) A conservator, other than a temporary or emergency
11 conservator, currently acting for the respondent in another
12 jurisdiction;

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

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

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

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 411.** ORDER OF APPOINTMENT OF CONSERVATOR. (1)

9 A court order appointing a conservator for a minor must include
10 findings to support appointment of a conservator and, if a full
11 conservatorship is granted, the reason a limited conservatorship
12 would not meet the identified needs of the minor.

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

14 (a) Include a specific finding that clear and convincing evidence
15 has established that the identified needs of the respondent cannot be
16 met by a protective arrangement instead of conservatorship or other
17 less restrictive alternatives, including use of appropriate
18 supportive services, technological assistance, or supported decision
19 making; and

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

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

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

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

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

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

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

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

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

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

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

8 (h) Notice of the death or significant change in the condition of
9 the individual;

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

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

13 (6) If an individual subject to conservatorship is an adult, the
14 spouse, domestic partner, and adult children of the adult subject to
15 conservatorship are entitled under subsection (5) of this section to
16 notice unless the court determines notice would be contrary to the
17 preferences or prior directions of the adult subject to
18 conservatorship or not in the best interest of the adult.

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

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

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

30 (2) Not later than thirty days after appointment of a conservator
31 under section 411 of this act, the court shall give to the individual
32 subject to conservatorship, the conservator, and any other person
33 entitled to notice under section 411(5) of this act a statement of
34 the rights of the individual subject to conservatorship and
35 procedures to seek relief if the individual is denied those rights.
36 The statement must be in plain language, in at least sixteen-point
37 font, and to the extent feasible, in a language in which the
38 individual subject to conservatorship is proficient. The statement

1 must notify the individual subject to conservatorship of the right
2 to:

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

6 (b) Participate in decision making to the extent reasonably
7 feasible;

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

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

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

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

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

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

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

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

34 (3) Immediately on filing of a petition for an emergency
35 conservator, the court shall appoint an attorney to represent the
36 respondent in the proceeding. Except as otherwise provided in
37 subsection (4) of this section, reasonable notice of the date, time,
38 and place of a hearing on the petition must be given to the

1 respondent, the respondent's attorney, and any other person the court
2 determines.

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

12 (a) The respondent;

13 (b) The respondent's attorney; and

14 (c) Any other person the court determines.

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

17 (6) Appointment of an emergency conservator under this section is
18 not a determination that a basis exists for appointment of a
19 conservator under section 401 of this act.

20 (7) The court may remove an emergency conservator appointed under
21 this section at any time. The emergency conservator shall make any
22 report the court requires.

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

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

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

32 (c) Convey, release, or disclaim a contingent or expectant
33 interest in property, including marital property and any right of
34 survivorship incident to joint tenancy or tenancy by the entirety;

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

36 (e) Create a revocable or irrevocable trust of property of the
37 conservatorship estate, whether or not the trust extends beyond the
38 duration of the conservatorship, or revoke or amend a trust revocable
39 by the individual subject to conservatorship;

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

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

7 (h) Grant a creditor priority for payment over creditors of the
8 same or higher class if the creditor is providing property or
9 services used to meet the basic living and care needs of the
10 individual subject to conservatorship and preferential treatment
11 otherwise would be impermissible under section 428(5) of this act;
12 and

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

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

19 (3) To determine under subsection (2) of this section the
20 decision the individual subject to conservatorship would make if
21 able, the court shall consider the individual's prior or current
22 directions, preferences, opinions, values, and actions, to the extent
23 actually known or reasonably ascertainable by the conservator. The
24 court also shall consider:

25 (a) The financial needs of the individual subject to
26 conservatorship and individuals who are in fact dependent on the
27 individual subject to conservatorship for support, and the interests
28 of creditors of the individual;

29 (b) Possible reduction of income, estate, inheritance, or other
30 tax liabilities;

31 (c) Eligibility for governmental assistance;

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

34 (e) Any existing estate plan or lack of estate plan of the
35 individual;

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

38 (g) Any other relevant factor.

39 (4) A conservator may not revoke or amend a power of attorney for
40 finances executed by the individual subject to conservatorship. If a

1 power of attorney for finances is in effect, a decision of the agent
2 takes precedence over that of the conservator, unless the court
3 orders otherwise.

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

7 (1) Requiring the conservator to furnish a bond or collateral or
8 additional bond or collateral or allowing a reduction in a bond or
9 collateral previously furnished;

10 (2) Requiring an accounting for the administration of the
11 conservatorship estate;

12 (3) Directing distribution;

13 (4) Removing the conservator and appointing a temporary or
14 successor conservator;

15 (5) Modifying the type of appointment or powers granted to the
16 conservator, if the extent of protection or management previously
17 granted is excessive or insufficient to meet the individual's needs,
18 including because the individual's abilities or supports have
19 changed;

20 (6) Rejecting or modifying the conservator's plan under section
21 419 of this act, the conservator's inventory under section 420 of
22 this act, or the conservator's report under section 423 of this act;
23 or

24 (7) Granting other appropriate relief.

25 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE ASSET PROTECTION
26 ARRANGEMENT. (1) Except as otherwise provided in subsections (3) and
27 (4) of this section, the court shall require a conservator to furnish
28 a bond with a surety the court specifies, or require an alternative
29 asset protection arrangement, conditioned on faithful discharge of
30 all duties of the conservator. The court may waive the requirement
31 only if the court finds that a bond or other asset protection
32 arrangement is not necessary to protect the interests of the
33 individual subject to conservatorship. Except as otherwise provided
34 in subsections (3) and (4) of this section, the court may not waive
35 the requirement if the conservator is in the business of serving as a
36 conservator and is being paid for the conservator's service.

37 (2) Unless the court directs otherwise, the bond required under
38 this section must be in the amount of the aggregate capital value of

1 the conservatorship estate, plus one year's estimated income, less
2 the value of property deposited under an arrangement requiring a
3 court order for its removal and real property the conservator lacks
4 power to sell or convey without specific court authorization. The
5 court, in place of surety on a bond, may accept collateral for the
6 performance of the bond, including a pledge of securities or a
7 mortgage of real property.

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

11 (4) In all conservatorships, in which the petition alleges that
12 the alleged incapacitated person has total assets of a value of less
13 than three thousand dollars, the court may dispense with the
14 requirement of a bond pending filing of an inventory confirming that
15 the estate has total assets of less than three thousand dollars:
16 PROVIDED, That the conservator swears to report to the court any
17 changes in the total assets of the incapacitated person increasing
18 their value to over three thousand dollars: PROVIDED FURTHER, That
19 the conservator files a yearly statement showing the monthly income
20 of the incapacitated person if such monthly income, excluding moneys
21 from state or federal benefits, is over the sum of five hundred
22 dollars per month for any three consecutive months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (a) The circumstances of the individual subject to
12 conservatorship and the conservatorship estate;

13 (b) General economic conditions;

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

15 (d) The expected tax consequences of an investment decision or
16 strategy;

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

19 (f) The expected total return from income and appreciation of
20 capital;

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

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

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

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

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

36 (9) In investing, selecting specific property for distribution,
37 and invoking a power of revocation or withdrawal for the use or
38 benefit of the individual subject to conservatorship, a conservator
39 shall consider any estate plan of the individual known or reasonably

1 ascertainable to the conservator and may examine the will or other
2 donative, nominative, or appointive instrument of the individual.

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

7 (a) The property lacks sufficient equity; or

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

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

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

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

21 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,
22 not later than sixty days after appointment and when there is a
23 significant change in circumstances or the conservator seeks to
24 deviate significantly from the conservator's plan, shall file with
25 the court a plan for protecting, managing, expending, and
26 distributing the assets of the conservatorship estate. The plan must
27 be based on the needs of the individual subject to conservatorship
28 and take into account the best interest of the individual as well as
29 the individual's preferences, values, and prior directions, to the
30 extent known to or reasonably ascertainable by the conservator. The
31 conservator shall include in the plan:

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

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

1 (c) Any step the conservator plans to take to develop or restore
2 the ability of the individual to manage the conservatorship estate;
3 and

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

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

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

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

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

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

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

38 (3) A conservator shall keep records of the administration of the
39 conservatorship estate and make them available for examination on

1 reasonable request of the individual subject to conservatorship, a
2 guardian for the individual, or any other person the conservator or
3 the court determines.

4 NEW SECTION. **Sec. 421.** ADMINISTRATIVE POWERS OF CONSERVATOR NOT
5 REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section
6 414 of this act or qualified or limited in the court's order of
7 appointment and stated in the letters of office, a conservator has
8 all powers granted in this section and any additional power granted
9 to a trustee by law of this state other than this chapter.

10 (2) A conservator, acting reasonably and consistent with the
11 fiduciary duties of the conservator to accomplish the purpose of the
12 conservatorship, without specific court authorization or
13 confirmation, may with respect to the conservatorship estate:

14 (a) Collect, hold, and retain property, including property in
15 which the conservator has a personal interest and real property in
16 another state, until the conservator determines disposition of the
17 property should be made;

18 (b) Receive additions to the conservatorship estate;

19 (c) Continue or participate in the operation of a business or
20 other enterprise;

21 (d) Acquire an undivided interest in property in which the
22 conservator, in a fiduciary capacity, holds an undivided interest;

23 (e) Invest assets;

24 (f) Deposit funds or other property in a financial institution,
25 including one operated by the conservator;

26 (g) Acquire or dispose of property, including real property in
27 another state, for cash or on credit, at public or private sale, and
28 manage, develop, improve, exchange, partition, change the character
29 of, or abandon property;

30 (h) Make ordinary or extraordinary repairs or alterations in a
31 building or other structure, demolish any improvement, or raze an
32 existing or erect a new party wall or building;

33 (i) Subdivide or develop land, dedicate land to public use, make
34 or obtain the vacation of a plat and adjust a boundary, adjust a
35 difference in valuation of land, exchange or partition land by giving
36 or receiving consideration, and dedicate an easement to public use
37 without consideration;

1 (j) Enter for any purpose into a lease of property as lessor or
2 lessee, with or without an option to purchase or renew, for a term
3 within or extending beyond the term of the conservatorship;

4 (k) Enter into a lease or arrangement for exploration and removal
5 of minerals or other natural resources or a pooling or unitization
6 agreement;

7 (l) Grant an option involving disposition of property or accept
8 or exercise an option for the acquisition of property;

9 (m) Vote a security, in person or by general or limited proxy;

10 (n) Pay a call, assessment, or other sum chargeable or accruing
11 against or on account of a security;

12 (o) Sell or exercise a stock subscription or conversion right;

13 (p) Consent, directly or through a committee or agent, to the
14 reorganization, consolidation, merger, dissolution, or liquidation of
15 a corporation or other business enterprise;

16 (q) Hold a security in the name of a nominee or in other form
17 without disclosure of the conservatorship so that title to the
18 security may pass by delivery;

19 (r) Insure:

20 (i) The conservatorship estate, in whole or in part, against
21 damage or loss in accordance with section 418(10) of this act; and

22 (ii) The conservator against liability with respect to a third
23 person;

24 (s) Borrow funds, with or without security, to be repaid from the
25 conservatorship estate or otherwise;

26 (t) Advance funds for the protection of the conservatorship
27 estate or the individual subject to conservatorship and all expenses,
28 losses, and liability sustained in the administration of the
29 conservatorship estate or because of holding any property for which
30 the conservator has a lien on the conservatorship estate;

31 (u) Pay or contest a claim, settle a claim by or against the
32 conservatorship estate or the individual subject to conservatorship
33 by compromise, arbitration, or otherwise, or release, in whole or in
34 part, a claim belonging to the conservatorship estate to the extent
35 the claim is uncollectible;

36 (v) Pay a tax, assessment, compensation of the conservator or any
37 guardian, and other expense incurred in the collection, care,
38 administration, and protection of the conservatorship estate;

39 (w) Pay a sum distributable to the individual subject to
40 conservatorship or an individual who is in fact dependent on the

1 individual subject to conservatorship by paying the sum to the
2 distributee or for the use of the distributee:

3 (i) To the guardian for the distributee;

4 (ii) To the custodian of the distributee under the uniform
5 transfers to minors act (chapter 11.114 RCW); or

6 (iii) If there is no guardian, custodian, or custodial trustee,
7 to a relative or other person having physical custody of the
8 distributee;

9 (x) Bring or defend an action, claim, or proceeding in any
10 jurisdiction for the protection of the conservatorship estate or the
11 conservator in the performance of the conservator's duties;

12 (y) Structure the finances of the individual subject to
13 conservatorship to establish eligibility for a public benefit,
14 including by making gifts consistent with the individual's
15 preferences, values, and prior directions, if the conservator's
16 action does not jeopardize the individual's welfare and otherwise is
17 consistent with the conservator's duties; and

18 (z) Execute and deliver any instrument that will accomplish or
19 facilitate the exercise of a power of the conservator.

20 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP
21 ESTATE. Except as otherwise provided in section 414 of this act or
22 qualified or limited in the court's order of appointment and stated
23 in the letters of office, and unless contrary to a conservator's plan
24 under section 419 of this act, the conservator may expend or
25 distribute income or principal of the conservatorship estate without
26 specific court authorization or confirmation for the support, care,
27 education, health, or welfare of the individual subject to
28 conservatorship or an individual who is in fact dependent on the
29 individual subject to conservatorship, including the payment of child
30 or spousal support, in accordance with the following rules:

31 (1) The conservator shall consider a recommendation relating to
32 the appropriate standard of support, care, education, health, or
33 welfare for the individual subject to conservatorship or individual
34 who is dependent on the individual subject to conservatorship, made
35 by a guardian for the individual subject to conservatorship, if any,
36 and, if the individual subject to conservatorship is a minor, a
37 recommendation made by a parent of the minor.

38 (2) The conservator acting in compliance with the conservator's
39 duties under section 418 of this act is not liable for an expenditure

1 or distribution made based on a recommendation under subsection (1)
2 of this section unless the conservator knows the expenditure or
3 distribution is not in the best interest of the individual subject to
4 conservatorship.

5 (3) In making an expenditure or distribution under this section,
6 the conservator shall consider:

7 (a) The size of the conservatorship estate, the estimated
8 duration of the conservatorship, and the likelihood the individual
9 subject to conservatorship, at some future time, may be fully self-
10 sufficient and able to manage the individual's financial affairs and
11 the conservatorship estate;

12 (b) The accustomed standard of living of the individual subject
13 to conservatorship and individual who is dependent on the individual
14 subject to conservatorship;

15 (c) Other funds or source used for the support of the individual
16 subject to conservatorship; and

17 (d) The preferences, values, and prior directions of the
18 individual subject to conservatorship.

19 (4) Funds expended or distributed under this section may be paid
20 by the conservator to any person, including the individual subject to
21 conservatorship, as reimbursement for expenditures the conservator
22 might have made, or in advance for services to be provided to the
23 individual subject to conservatorship or individual who is dependent
24 on the individual subject to conservatorship if it is reasonable to
25 expect the services will be performed and advance payment is
26 customary or reasonably necessary under the circumstances.

27 NEW SECTION. **Sec. 423.** CONSERVATOR'S REPORT AND ACCOUNTING—
28 MONITORING. (1) A conservator shall file with the court a report in a
29 record regarding the administration of the conservatorship estate
30 annually unless the court otherwise directs, on resignation or
31 removal, on termination of the conservatorship, and at any other time
32 the court directs.

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

35 (a) An accounting that lists property included in the
36 conservatorship estate and the receipts, disbursements, liabilities,
37 and distributions during the period for which the report is made;

38 (b) A list of the services provided to the individual subject to
39 conservatorship;

1 (c) A copy of the conservator's most recently approved plan and a
2 statement whether the conservator has deviated from the plan and, if
3 so, how the conservator has deviated and why;

4 (d) A recommendation as to the need for continued conservatorship
5 and any recommended change in the scope of the conservatorship;

6 (e) To the extent feasible, a copy of the most recent reasonably
7 available financial statements evidencing the status of bank
8 accounts, investment accounts, and mortgages or other debts of the
9 individual subject to conservatorship with all but the last four
10 digits of the account numbers and social security number redacted;

11 (f) Anything of more than de minimis value which the conservator,
12 any individual who resides with the conservator, or the spouse,
13 domestic partner, parent, child, or sibling of the conservator has
14 received from a person providing goods or services to the individual
15 subject to conservatorship;

16 (g) Any business relation the conservator has with a person the
17 conservator has paid or that has benefited from the property of the
18 individual subject to conservatorship; and

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

21 (3) The court may appoint a visitor to review a report under this
22 section or conservator's plan under section 419 of this act,
23 interview the individual subject to conservatorship or conservator,
24 or investigate any other matter involving the conservatorship. In
25 connection with the report, the court may order the conservator to
26 submit the conservatorship estate to appropriate examination in a
27 manner the court directs.

28 (4) Notice of the filing under this section of a conservator's
29 report, together with a copy of the report, must be provided to the
30 individual subject to conservatorship, a person entitled to notice
31 under section 411(5) of this act or a subsequent order, and other
32 persons the court determines. The notice and report must be given not
33 later than fourteen days after filing.

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

37 (a) The reports provide sufficient information to establish the
38 conservator has complied with the conservator's duties;

39 (b) The conservatorship should continue; and

40 (c) The conservator's requested fees, if any, should be approved.

1 (6) If the court determines there is reason to believe a
2 conservator has not complied with the conservator's duties or the
3 conservatorship should not continue, the court:

4 (a) Shall notify the individual subject to conservatorship, the
5 conservator, and any other person entitled to notice under section
6 411(5) of this act or a subsequent order;

7 (b) May require additional information from the conservator;

8 (c) May appoint a visitor to interview the individual subject to
9 conservatorship or conservator or investigate any matter involving
10 the conservatorship; and

11 (d) Consistent with sections 430 and 431 of this act, may hold a
12 hearing to consider removal of the conservator, termination of the
13 conservatorship, or a change in the powers granted to the conservator
14 or terms of the conservatorship.

15 (7) If the court has reason to believe fees requested by a
16 conservator are not reasonable, the court shall hold a hearing to
17 determine whether to adjust the requested fees.

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

23 (9) An order, after notice and hearing, approving an interim
24 report of a conservator filed under this section adjudicates
25 liabilities concerning a matter adequately disclosed in the report,
26 as to a person given notice of the report or accounting.

27 (10) An order, after notice and hearing, approving a final report
28 filed under this section discharges the conservator from all
29 liabilities, claims, and causes of action by a person given notice of
30 the report and the hearing as to a matter adequately disclosed in the
31 report.

32 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY
33 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an
34 individual subject to conservatorship in property included in the
35 conservatorship estate is not transferable or assignable by the
36 individual and is not subject to levy, garnishment, or similar
37 process for claims against the individual unless allowed under
38 section 428 of this act.

1 (2) If an individual subject to conservatorship enters into a
2 contract after having the right to enter the contract removed by the
3 court, the contract is void against the individual and the
4 individual's property but is enforceable against the person that
5 contracted with the individual.

6 (3) A person other than the conservator that deals with an
7 individual subject to conservatorship with respect to property
8 included in the conservatorship estate is entitled to protection
9 provided by law of this state other than this chapter.

10 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF
11 INTEREST. A transaction involving a conservatorship estate which is
12 affected by a substantial conflict between the conservator's
13 fiduciary duties and personal interests is voidable unless the
14 transaction is authorized by court order after notice to persons
15 entitled to notice under section 411(5) of this act or a subsequent
16 order. A transaction affected by a substantial conflict includes a
17 sale, encumbrance, or other transaction involving the conservatorship
18 estate entered into by the conservator, an individual with whom the
19 conservator resides, the spouse, domestic partner, descendant,
20 sibling, agent, or attorney of the conservator, or a corporation or
21 other enterprise in which the conservator has a substantial
22 beneficial interest.

23 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH
24 CONSERVATOR. (1) A person that assists or deals with a conservator in
25 good faith and for value in any transaction, other than a transaction
26 requiring a court order under section 414 of this act, is protected
27 as though the conservator properly exercised any power in question.
28 Knowledge by a person that the person is dealing with a conservator
29 alone does not require the person to inquire into the existence of
30 authority of the conservator or the propriety of the conservator's
31 exercise of authority, but restrictions on authority stated in
32 letters of office, or otherwise provided by law, are effective as to
33 the person. A person that pays or delivers property to a conservator
34 is not responsible for proper application of the property.

35 (2) Protection under subsection (1) of this section extends to a
36 procedural irregularity or jurisdictional defect in the proceeding
37 leading to the issuance of letters of office and does not substitute
38 for protection for a person that assists or deals with a conservator

1 provided by comparable provisions in law of this state other than
2 this chapter relating to a commercial transaction or simplifying a
3 transfer of securities by a fiduciary.

4 NEW SECTION. **Sec. 427.** DEATH OF INDIVIDUAL SUBJECT TO
5 CONSERVATORSHIP. (1) If an individual subject to conservatorship
6 dies, the conservator shall deliver to the court for safekeeping any
7 will of the individual in the conservator's possession and inform the
8 personal representative named in the will if feasible, or if not
9 feasible, a beneficiary named in the will, of the delivery.

10 (2) If forty days after the death of an individual subject to
11 conservatorship no personal representative has been appointed and no
12 application or petition for appointment is before the court, the
13 conservator may apply to exercise the powers and duties of a personal
14 representative to administer and distribute the decedent's estate.
15 The conservator shall give notice of his or her appointment and the
16 pendency of any probate proceedings as provided in RCW 11.28.237 and
17 shall also give notice to a person nominated as personal
18 representative by a will of the decedent of which the conservator is
19 aware. The court may grant the application if there is no objection
20 and endorse the letters of office to note that the individual
21 formerly subject to conservatorship is deceased and the conservator
22 has acquired the powers and duties of a personal representative.

23 (3) On the death of an individual subject to conservatorship, the
24 conservator shall conclude the administration of the conservatorship
25 estate as provided in section 431 of this act.

26 NEW SECTION. **Sec. 428.** PRESENTATION AND ALLOWANCE OF CLAIM. (1)
27 A conservator may pay, or secure by encumbering property included in
28 the conservatorship estate, a claim against the conservatorship
29 estate or the individual subject to conservatorship arising before or
30 during the conservatorship, on presentation and allowance in
31 accordance with the priorities under subsection (4) of this section.
32 A claimant may present a claim by:

33 (a) Sending or delivering to the conservator a statement in a
34 record of the claim, indicating its basis, the name and address of
35 the claimant, and the amount claimed; or

36 (b) Filing the claim with the court, in a form acceptable to the
37 court, and sending or delivering a copy of the claim to the
38 conservator.

1 (2) A claim under subsection (1) of this section is presented on
2 receipt by the conservator of the statement of the claim or the
3 filing with the court of the claim, whichever first occurs. A
4 presented claim is allowed if it is not disallowed in whole or in
5 part by the conservator in a record sent or delivered to the claimant
6 not later than sixty days after its presentation. Before payment, the
7 conservator may change an allowance of the claim to a disallowance in
8 whole or in part, but not after allowance under a court order or
9 order directing payment of the claim. Presentation of a claim tolls
10 until thirty days after disallowance of the claim the running of a
11 statute of limitations that has not expired relating to the claim.

12 (3) A claimant whose claim under subsection (1) of this section
13 has not been paid may petition the court to determine the claim at
14 any time before it is barred by a statute of limitations, and the
15 court may order its allowance, payment, or security by encumbering
16 property included in the conservatorship estate. If a proceeding is
17 pending against the individual subject to conservatorship at the time
18 of appointment of the conservator or is initiated thereafter, the
19 moving party shall give the conservator notice of the proceeding if
20 it could result in creating a claim against the conservatorship
21 estate.

22 (4) If a conservatorship estate is likely to be exhausted before
23 all existing claims are paid, the conservator shall distribute the
24 estate in money or in kind in payment of claims in the following
25 order:

26 (a) Costs and expenses of administration;

27 (b) A claim of the federal or state government having priority
28 under law other than this chapter;

29 (c) A claim incurred by the conservator for support, care,
30 education, health, or welfare previously provided to the individual
31 subject to conservatorship or an individual who is in fact dependent
32 on the individual subject to conservatorship;

33 (d) A claim arising before the conservatorship; and

34 (e) All other claims.

35 (5) Preference may not be given in the payment of a claim under
36 subsection (4) of this section over another claim of the same class.
37 A claim due and payable may not be preferred over a claim not due
38 unless:

1 (a) Doing so would leave the conservatorship estate without
2 sufficient funds to pay the basic living and health care expenses of
3 the individual subject to conservatorship; and

4 (b) The court authorizes the preference under section 414(1)(h)
5 of this act.

6 (6) If assets of a conservatorship estate are adequate to meet
7 all existing claims, the court, acting in the best interest of the
8 individual subject to conservatorship, may order the conservator to
9 grant a security interest in the conservatorship estate for payment
10 of a claim at a future date.

11 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)
12 Except as otherwise agreed by a conservator, the conservator is not
13 personally liable on a contract properly entered into in a fiduciary
14 capacity in the course of administration of the conservatorship
15 estate unless the conservator fails to reveal the conservator's
16 representative capacity in the contract or before entering into the
17 contract.

18 (2) A conservator is personally liable for an obligation arising
19 from control of property of the conservatorship estate or an act or
20 omission occurring in the course of administration of the
21 conservatorship estate only if the conservator is personally at
22 fault.

23 (3) A claim based on a contract entered into by a conservator in
24 a fiduciary capacity, an obligation arising from control of property
25 included in the conservatorship estate, or a tort committed in the
26 course of administration of the conservatorship estate may be
27 asserted against the conservatorship estate in a proceeding against
28 the conservator in a fiduciary capacity, whether or not the
29 conservator is personally liable for the claim.

30 (4) A question of liability between a conservatorship estate and
31 the conservator personally may be determined in a proceeding for
32 accounting, surcharge, or indemnification or another appropriate
33 proceeding or action.

34 NEW SECTION. **Sec. 430.** REMOVAL OF CONSERVATOR—APPOINTMENT OF
35 SUCCESSOR. (1) The court may remove a conservator for failure to
36 perform the conservator's duties or other good cause and appoint a
37 successor conservator to assume the duties of the conservator.

1 (2) The court shall hold a hearing to determine whether to remove
2 a conservator and appoint a successor on:

3 (a) Petition of the individual subject to conservatorship,
4 conservator, or person interested in the welfare of the individual
5 which contains allegations that, if true, would support a reasonable
6 belief that removal of the conservator and appointment of a successor
7 may be appropriate, but the court may decline to hold a hearing if a
8 petition based on the same or substantially similar facts was filed
9 during the preceding six months;

10 (b) Communication from the individual subject to conservatorship,
11 conservator, or person interested in the welfare of the individual
12 which supports a reasonable belief that removal of the conservator
13 and appointment of a successor may be appropriate; or

14 (c) Determination by the court that a hearing would be in the
15 best interest of the individual subject to conservatorship.

16 (3) Notice of a petition under subsection (2)(a) of this section
17 must be given to the individual subject to conservatorship, the
18 conservator, and any other person the court determines.

19 (4) An individual subject to conservatorship who seeks to remove
20 the conservator and have a successor appointed has the right to
21 choose an attorney to represent the individual in this matter. The
22 court shall award reasonable attorneys' fees to the attorney as
23 provided in section 121 of this act.

24 (5) In selecting a successor conservator, the court shall follow
25 the priorities under section 410 of this act.

26 (6) Not later than thirty days after appointing a successor
27 conservator, the court shall give notice of the appointment to the
28 individual subject to conservatorship and any person entitled to
29 notice under section 411(5) of this act or a subsequent order.

30 NEW SECTION. **Sec. 431.** TERMINATION OR MODIFICATION OF
31 CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the
32 earliest of:

33 (a) A court order terminating the conservatorship;

34 (b) The minor becoming an adult or, if the minor consents or the
35 court finds by clear and convincing evidence that substantial harm to
36 the minor's interests is otherwise likely, attaining twenty-one years
37 of age;

38 (c) Emancipation of the minor; or

39 (d) Death of the minor.

1 (2) A conservatorship for an adult terminates on order of the
2 court or when the adult dies.

3 (3) An individual subject to conservatorship, the conservator, or
4 a person interested in the welfare of the individual may petition
5 for:

6 (a) Termination of the conservatorship on the ground that a basis
7 for appointment under section 401 of this act does not exist or
8 termination would be in the best interest of the individual or for
9 other good cause; or

10 (b) Modification of the conservatorship on the ground that the
11 extent of protection or assistance granted is not appropriate or for
12 other good cause.

13 (4) The court shall hold a hearing to determine whether
14 termination or modification of a conservatorship is appropriate on:

15 (a) Petition under subsection (3) of this section that contains
16 allegations that, if true, would support a reasonable belief that
17 termination or modification of the conservatorship may be
18 appropriate, but the court may decline to hold a hearing if a
19 petition based on the same or substantially similar facts was filed
20 within the preceding six months;

21 (b) A communication from the individual subject to
22 conservatorship, conservator, or person interested in the welfare of
23 the individual which supports a reasonable belief that termination or
24 modification of the conservatorship may be appropriate, including
25 because the functional needs of the individual or supports or
26 services available to the individual have changed;

27 (c) A report from a guardian or conservator which indicates that
28 termination or modification may be appropriate because the functional
29 needs or supports or services available to the individual have
30 changed or a protective arrangement instead of conservatorship or
31 other less restrictive alternative is available; or

32 (d) A determination by the court that a hearing would be in the
33 best interest of the individual.

34 (5) Notice of a petition under subsection (3) of this section
35 must be given to the individual subject to conservatorship, the
36 conservator, and any such other person the court determines.

37 (6) On presentation of prima facie evidence for termination of a
38 conservatorship, the court shall order termination unless it is
39 proven that a basis for appointment of a conservator under section
40 401 of this act exists.

1 (7) The court shall modify the powers granted to a conservator if
2 the powers are excessive or inadequate due to a change in the
3 abilities or limitations of the individual subject to
4 conservatorship, the individual's supports, or other circumstances.

5 (8) Unless the court otherwise orders for good cause, before
6 terminating a conservatorship, the court shall follow the same
7 procedures to safeguard the rights of the individual subject to
8 conservatorship which apply to a petition for conservatorship.

9 (9) An individual subject to conservatorship who seeks to
10 terminate or modify the terms of the conservatorship has the right to
11 choose an attorney to represent the individual in this matter. The
12 court shall award reasonable attorneys' fees to the attorney as
13 provided in section 121 of this act.

14 (10) On termination of a conservatorship other than by reason of
15 the death of the individual subject to conservatorship, property of
16 the conservatorship estate passes to the individual. The order of
17 termination must direct the conservator to file a final report and
18 petition for discharge on approval by the court of the final report.

19 (11) On termination of a conservatorship by reason of the death
20 of the individual subject to conservatorship, the conservator
21 promptly shall file a final report and petition for discharge on
22 approval by the court of the final report. On approval of the final
23 report, the conservator shall proceed expeditiously to distribute the
24 conservatorship estate to the individual's estate or as otherwise
25 ordered by the court. The conservator may take reasonable measures
26 necessary to preserve the conservatorship estate until distribution
27 can be made.

28 (12) The court shall issue a final order of discharge on the
29 approval by the court of the final report and satisfaction by the
30 conservator of any other condition the court imposed on the
31 conservator's discharge.

32 NEW SECTION. **Sec. 432.** TRANSFER FOR BENEFIT OF MINOR WITHOUT
33 APPOINTMENT OF CONSERVATOR. (1) Unless a person required to transfer
34 funds or other property to a minor knows that a conservator for the
35 minor has been appointed or a proceeding is pending for
36 conservatorship, the person may transfer an amount or value not
37 exceeding fifteen thousand dollars in a twelve-month period to:

38 (a) A person that has care or custody of the minor and with whom
39 the minor resides;

1 (b) A guardian for the minor;

2 (c) A custodian under the uniform transfers to minors act
3 (chapter 11.114 RCW); or

4 (d) A financial institution as a deposit in an interest-bearing
5 account or certificate solely in the name of the minor and shall give
6 notice to the minor of the deposit.

7 (2) A person that transfers funds or other property under this
8 section is not responsible for its proper application.

9 (3) A person that receives funds or other property for a minor
10 under subsection (1)(a) or (b) of this section may apply it only to
11 the support, care, education, health, or welfare of the minor, and
12 may not derive a personal financial benefit from it, except for
13 reimbursement for necessary expenses. Funds not applied for these
14 purposes must be preserved for the future support, care, education,
15 health, or welfare of the minor, and the balance, if any, transferred
16 to the minor when the minor becomes an adult or otherwise is
17 emancipated.

18 **ARTICLE 5**

19 **OTHER PROTECTIVE ARRANGEMENTS**

20 NEW SECTION. **Sec. 501.** AUTHORITY FOR PROTECTIVE ARRANGEMENT.

21 (1) Under this article, a court:

22 (a) On receiving a petition for a guardianship for an adult may
23 order a protective arrangement instead of guardianship as a less
24 restrictive alternative to guardianship; and

25 (b) On receiving a petition for a conservatorship for an
26 individual may order a protective arrangement instead of
27 conservatorship as a less restrictive alternative to conservatorship.

28 (2) A person interested in an adult's welfare, including the
29 adult or a conservator for the adult, may petition under this article
30 for a protective arrangement instead of guardianship.

31 (3) The following persons may petition under this article for a
32 protective arrangement instead of conservatorship:

33 (a) The individual for whom the protective arrangement is sought;

34 (b) A person interested in the property, financial affairs, or
35 welfare of the individual, including a person that would be affected
36 adversely by lack of effective management of property or financial
37 affairs of the individual; and

38 (c) The guardian for the individual.

1 NEW SECTION. **Sec. 502.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
2 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under
3 section 302 of this act for a guardianship or under section 501(2) of
4 this act for a protective arrangement instead of guardianship, the
5 court may issue an order under subsection (2) of this section for a
6 protective arrangement instead of guardianship if the court finds by
7 clear and convincing evidence that:

8 (a) The respondent lacks the ability to meet essential
9 requirements for physical health, safety, or self-care because the
10 respondent is unable to receive and evaluate information or make or
11 communicate decisions, even with appropriate supportive services,
12 technological assistance, or supported decision making; and

13 (b) The respondent's identified needs cannot be met by a less
14 restrictive alternative.

15 (2) If the court makes the findings under subsection (1) of this
16 section, the court, instead of appointing a guardian, may:

17 (a) Authorize or direct a transaction necessary to meet the
18 respondent's need for health, safety, or care, including:

19 (i) A particular medical treatment or refusal of a particular
20 medical treatment;

21 (ii) A move to a specified place of dwelling; or

22 (iii) Visitation or supervised visitation between the respondent
23 and another person;

24 (b) Restrict access to the respondent by a specified person whose
25 access places the respondent at serious risk of physical,
26 psychological, or financial harm; and

27 (c) Reorder other arrangements on a limited basis that are
28 appropriate.

29 (3) In deciding whether to issue an order under this section, the
30 court shall consider the factors under sections 313 and 314 of this
31 act that a guardian must consider when making a decision on behalf of
32 an adult subject to guardianship.

33 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
34 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a
35 petition under section 402 of this act for conservatorship for an
36 adult or under section 501(3) of this act for a protective
37 arrangement instead of a conservatorship for an adult, the court may
38 issue an order under subsection (3) of this section for a protective

1 arrangement instead of conservatorship for the adult if the court
2 finds by clear and convincing evidence that:

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

5 (i) Of a limitation in the ability to receive and evaluate
6 information or make or communicate decisions, even with appropriate
7 supportive services, technological assistance, or supported decision
8 making; or

9 (ii) The adult is missing, detained, or unable to return to the
10 United States;

11 (b) An order under subsection (3) of this section is necessary
12 to:

13 (i) Avoid harm to the adult or significant dissipation of the
14 property of the adult; or

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

18 (c) The respondent's identified needs cannot be met by a less
19 restrictive alternative.

20 (2) After the hearing on a petition under section 402 of this act
21 for conservatorship for a minor or under section 501(3) of this act
22 for a protective arrangement instead of conservatorship for a minor,
23 the court may issue an order under subsection (3) of this section for
24 a protective arrangement instead of conservatorship for the
25 respondent if the court finds by a preponderance of the evidence that
26 the arrangement is in the minor's best interest, and:

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

30 (b) Either:

31 (i) The minor owns money or property requiring management or
32 protection that otherwise cannot be provided;

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

35 (iii) The arrangement is necessary or desirable to obtain or
36 provide funds or other property needed for the support, care,
37 education, health, or welfare of the minor; and

38 (iv) The order under subsection (3) of this section is necessary
39 or desirable to obtain or provide money needed for the support, care,
40 education, health, or welfare of the minor.

1 (3) If the court makes the findings under subsection (1) or (2)
2 of this section, the court, instead of appointing a conservator, may:

3 (a) Authorize or direct a transaction necessary to protect the
4 financial interest or property of the respondent, including:

5 (i) An action to establish eligibility for benefits;

6 (ii) Payment, delivery, deposit, or retention of funds or
7 property;

8 (iii) Sale, mortgage, lease, or other transfer of property;

9 (iv) Purchase of an annuity;

10 (v) Entry into a contractual relationship, including a contract
11 to provide for personal care, supportive services, education,
12 training, or employment;

13 (vi) Addition to or establishment of a trust;

14 (vii) Ratification or invalidation of a contract, trust, will, or
15 other transaction, including a transaction related to the property or
16 business affairs of the respondent; or

17 (viii) Settlement of a claim; or

18 (b) Restrict access to the respondent's property by a specified
19 person whose access to the property places the respondent at serious
20 risk of financial harm.

21 (4) After the hearing on a petition under section 501 (1)(b) or
22 (3) of this act, whether or not the court makes the findings under
23 subsection (1) or (2) of this section, the court may issue an order
24 to restrict access to the respondent or the respondent's property by
25 a specified person that the court finds by clear and convincing
26 evidence:

27 (a) Through fraud, coercion, duress, or the use of deception and
28 control caused or attempted to cause an action that would have
29 resulted in financial harm to the respondent or the respondent's
30 property; and

31 (b) Poses a serious risk of substantial financial harm to the
32 respondent or the respondent's property.

33 (5) Before issuing an order under subsection (3) or (4) of this
34 section, the court shall consider the factors under section 418 of
35 this act a conservator must consider when making a decision on behalf
36 of an individual subject to conservatorship.

37 (6) Before issuing an order under subsection (3) or (4) of this
38 section for a respondent who is a minor, the court also shall
39 consider the best interest of the minor, the preference of the

1 parents of the minor, and the preference of the minor, if the minor
2 is twelve years of age or older.

3 NEW SECTION. **Sec. 504.** PETITION FOR PROTECTIVE ARRANGEMENT. A
4 petition for a protective arrangement instead of guardianship or
5 conservatorship must state the petitioner's name, principal
6 residence, current street address, if different, relationship to the
7 respondent, interest in the protective arrangement, the name and
8 address of any attorney representing the petitioner, and, to the
9 extent known, the following:

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

14 (2) The name and address of the respondent's:

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

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

22 (c) Adult stepchildren whom the respondent actively parented
23 during the stepchildren's minor years and with whom the respondent
24 had an ongoing relationship in the two-year period immediately before
25 the filing of the petition;

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

28 (a) A person responsible for the care or custody of the
29 respondent;

30 (b) Any attorney currently representing the respondent;

31 (c) The representative payee appointed by the social security
32 administration for the respondent;

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

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

37 (f) The fiduciary appointed for the respondent by the department
38 of veterans affairs;

1 (g) An agent designated under a power of attorney for health care
2 in which the respondent is identified as the principal;

3 (h) An agent designated under a power of attorney for finances in
4 which the respondent is identified as the principal;

5 (i) A person nominated as guardian or conservator by the
6 respondent if the respondent is twelve years of age or older;

7 (j) A person nominated as guardian by the respondent's parent,
8 spouse, or domestic partner in a will or other signed record;

9 (k) A person known to have routinely assisted the respondent with
10 decision making in the six-month period immediately before the filing
11 of the petition; and

12 (l) If the respondent is a minor:

13 (i) An adult not otherwise listed with whom the respondent
14 resides; and

15 (ii) Each person not otherwise listed that had primary care or
16 custody of the respondent for at least sixty days during the two
17 years immediately before the filing of the petition or for at least
18 seven hundred thirty days during the five years immediately before
19 the filing of the petition;

20 (4) The nature of the protective arrangement sought;

21 (5) The reason the protective arrangement sought is necessary,
22 including a brief description of:

23 (a) The nature and extent of the respondent's alleged need;

24 (b) Any less restrictive alternative for meeting the respondent's
25 alleged need which has been considered or implemented;

26 (c) If no less restrictive alternative has been considered or
27 implemented, the reason less restrictive alternatives have not been
28 considered or implemented; and

29 (d) The reason other less restrictive alternatives are
30 insufficient to meet the respondent's alleged need;

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

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

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

1 (9) If a protective arrangement instead of conservatorship is
2 sought, a general statement of the respondent's property with an
3 estimate of its value, including any insurance or pension, and the
4 source and amount of other anticipated income or receipts.

5 NEW SECTION. **Sec. 505.** NOTICE AND HEARING. (1) On filing of a
6 petition under section 501 of this act, the court shall set a date,
7 time, and place for a hearing on the petition.

8 (2) A copy of a petition under section 501 of this act and notice
9 of a hearing on the petition must be served personally on the
10 respondent. The notice must inform the respondent of the respondent's
11 rights at the hearing, including the right to an attorney and to
12 attend the hearing. The notice must include a description of the
13 nature, purpose, and consequences of granting the petition. The court
14 may not grant the petition if notice substantially complying with
15 this subsection is not served on the respondent.

16 (3) In a proceeding on a petition under section 501 of this act,
17 the notice required under subsection (2) of this section must be
18 given to the persons required to be listed in the petition under
19 section 504 (1) through (3) of this act and any other person
20 interested in the respondent's welfare the court determines. Failure
21 to give notice under this subsection does not preclude the court from
22 granting the petition.

23 (4) After the court has ordered a protective arrangement under
24 this article, notice of a hearing on a petition filed under this
25 chapter, together with a copy of the petition, must be given to the
26 respondent and any other person the court determines.

27 NEW SECTION. **Sec. 506.** APPOINTMENT AND ROLE OF VISITOR. (1) On
28 filing of a petition under section 501 of this act for a protective
29 arrangement instead of guardianship, the court shall appoint a
30 visitor. The visitor must be an individual with training or
31 experience in the type of abilities, limitations, and needs alleged
32 in the petition.

33 (2) On filing of a petition under section 501 of this act for a
34 protective arrangement instead of conservatorship for a minor, the
35 court may appoint a visitor to investigate a matter related to the
36 petition or inform the minor or a parent of the minor about the
37 petition or a related matter.

1 (3) On filing of a petition under section 501 of this act or a
2 protective arrangement instead of conservatorship for an adult, the
3 court shall appoint a visitor unless the respondent is represented by
4 an attorney appointed by the court. The visitor must be an individual
5 with training or experience in the types of abilities, limitations,
6 and needs alleged in the petition.

7 (4) A visitor appointed under subsection (1) or (3) of this
8 section shall interview the respondent in person and in a manner the
9 respondent is best able to understand:

10 (a) Explain to the respondent the substance of the petition, the
11 nature, purpose, and effect of the proceeding, and the respondent's
12 rights at the hearing on the petition;

13 (b) Determine the respondent's views with respect to the order
14 sought;

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

18 (d) Inform the respondent that all costs and expenses of the
19 proceeding, including respondent's attorneys' fees, may be paid from
20 the respondent's assets;

21 (e) If the petitioner seeks an order related to the dwelling of
22 the respondent, visit the respondent's present dwelling and any
23 dwelling in which it is reasonably believed the respondent will live
24 if the order is granted;

25 (f) If a protective arrangement instead of guardianship is
26 sought, obtain information from any physician or other person known
27 to have treated, advised, or assessed the respondent's relevant
28 physical or mental condition;

29 (g) If a protective arrangement instead of conservatorship is
30 sought, review financial records of the respondent, if relevant to
31 the visitor's recommendation under subsection (5)(c) of this section;
32 and

33 (h) Investigate the allegations in the petition and any other
34 matter relating to the petition the court directs.

35 (5) A visitor under this section promptly shall file a report in
36 a record with the court, which must include:

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

1 (b) To the extent relevant to the order sought, a summary of
2 self-care, independent living tasks, and financial management tasks
3 the respondent:

4 (i) Can manage without assistance or with existing supports;

5 (ii) Could manage with the assistance of appropriate supportive
6 services, technological assistance, or supported decision making; and

7 (iii) Cannot manage;

8 (c) A recommendation regarding the appropriateness of the
9 protective arrangement sought and whether a less restrictive
10 alternative for meeting the respondent's needs is available;

11 (d) If the petition seeks to change the physical location of the
12 dwelling of the respondent, a statement whether the proposed dwelling
13 meets the respondent's needs and whether the respondent has expressed
14 a preference as to the respondent's dwelling;

15 (e) A recommendation whether a professional evaluation under
16 section 508 of this act is necessary;

17 (f) A statement whether the respondent is able to attend a
18 hearing at the location court proceedings typically are held;

19 (g) A statement whether the respondent is able to participate in
20 a hearing and which identifies any technology or other form of
21 support that would enhance the respondent's ability to participate;
22 and

23 (h) Any other matter the court directs.

24 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1)

25 Unless the respondent in a proceeding under this article is
26 represented by an attorney, the court shall appoint an attorney to
27 represent the respondent, regardless of the respondent's ability to
28 pay.

29 (2) An attorney representing the respondent in a proceeding under
30 this article shall:

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

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

34 (c) If the respondent's wishes are not reasonably ascertainable,
35 advocate for the result that is the least restrictive alternative in
36 type, duration, and scope, consistent with the respondent's
37 interests.

38 (3) The court shall appoint an attorney to represent a parent of
39 a minor who is the subject of a proceeding under this article if:

1 (a) The parent objects to the entry of an order for a protective
2 arrangement instead of guardianship or conservatorship;

3 (b) The court determines that counsel is needed to ensure that
4 consent to the entry of an order for a protective arrangement is
5 informed; or

6 (c) The court otherwise determines the parent needs
7 representation.

8 NEW SECTION. **Sec. 508.** PROFESSIONAL EVALUATION. (1) At or
9 before a hearing on a petition under this article for a protective
10 arrangement, the court shall order a professional evaluation of the
11 respondent:

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

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

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

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

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

30 (c) A prognosis for improvement, including with regard to the
31 ability to manage the respondent's property and financial affairs if
32 a limitation in that ability is alleged, and recommendation for the
33 appropriate treatment, support, or habilitation plan; and

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

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

37 NEW SECTION. **Sec. 509.** ATTENDANCE AND RIGHTS AT HEARING. (1)
38 Except as otherwise provided in subsection (2) of this section, a

1 hearing under this article may not proceed unless the respondent
2 attends the hearing. If it is not reasonably feasible for the
3 respondent to attend a hearing at the location court proceedings
4 typically are held, the court shall make reasonable efforts to hold
5 the hearing at an alternative location convenient to the respondent
6 or allow the respondent to attend the hearing using real-time audio-
7 visual technology.

8 (2) A hearing under this article may proceed without the
9 respondent in attendance if the court finds by clear and convincing
10 evidence that:

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

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

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

19 (3) The respondent may be assisted in a hearing under this
20 article 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 this article.

28 (5) At a hearing under this article, the respondent may:

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

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

32 (c) Otherwise participate in the hearing.

33 (6) A hearing under this article must be closed on request of the
34 respondent and a showing of good cause.

35 (7) Any person may request to participate in a hearing under this
36 article. The court may grant the request, with or without a hearing,
37 on determining that the best interests of the respondent will be
38 served. The court may impose appropriate conditions on the person's
39 participation.

1 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give
2 notice of an order under this article to the individual who is
3 subject to the protective arrangement instead of guardianship or
4 conservatorship, a person whose access to the individual is
5 restricted by the order, and any other person the court determines.

6 NEW SECTION. **Sec. 511.** CONFIDENTIALITY OF RECORDS. (1) The
7 existence of a proceeding for or the existence of a protective
8 arrangement instead of guardianship or conservatorship is a matter of
9 public record unless the court seals the record after:

10 (a) The respondent, the individual subject to the protective
11 arrangement, or the parent of a minor subject to the protective
12 arrangement requests the record be sealed; and

13 (b) Either:

14 (i) The proceeding is dismissed;

15 (ii) The protective arrangement is no longer in effect; or

16 (iii) An act authorized by the order granting the protective
17 arrangement has been completed.

18 (2) A respondent, an individual subject to a protective
19 arrangement instead of guardianship or conservatorship, an attorney
20 designated by the respondent or individual, a parent of a minor
21 subject to a protective arrangement, and any other person the court
22 determines are entitled to access court records of the proceeding and
23 resulting protective arrangement. A person not otherwise entitled
24 access to court records under this subsection for good cause may
25 petition the court for access. The court shall grant access if access
26 is in the best interest of the respondent or individual subject to
27 the protective arrangement or furthers the public interest and does
28 not endanger the welfare or financial interests of the respondent or
29 individual.

30 (3) A report of a visitor or professional evaluation generated in
31 the course of a proceeding under this article must be sealed on
32 filing but is available to:

33 (a) The court;

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

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

1 (d) Unless the court orders otherwise, an agent appointed under a
2 power of attorney for finances in which the respondent is the
3 principal;

4 (e) If the order is for a protective arrangement instead of
5 guardianship and unless the court orders otherwise, an agent
6 appointed under a power of attorney for health care in which the
7 respondent is identified as the principal; and

8 (f) Any other person if it is in the public interest or for a
9 purpose the court orders for good cause.

10 NEW SECTION. **Sec. 512.** APPOINTMENT OF COMMISSIONER. The court
11 may appoint a commissioner to assist in implementing a protective
12 arrangement under this article. The commissioner has the authority
13 conferred by the order of appointment and serves until discharged by
14 court order.

15 **ARTICLE 6**
16 **FORMS**

17 NEW SECTION. **Sec. 601.** USE OF FORMS. Use of the forms contained
18 in this article is optional. Failure to use these forms does not
19 prejudice any party.

20 NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR.
21 This form may be used to petition for guardianship for a minor.

22 **Petition for Guardianship for Minor**

23 State of:

24 County of:

25 Name and address of attorney representing petitioner, if
26 applicable:

27

28

29 Note to petitioner: This form can be used to petition for a
30 guardian for a minor. A court may appoint a guardian for a minor
31 who does not have a guardian if the court finds the appointment
32 is in the minor's best interest, and: The parents, after being
33 fully informed of the nature and consequences of guardianship,
34 consent; all parental rights have been terminated; or the court

1 finds by clear and convincing evidence that the parents are
2 unwilling or unable to exercise their parental rights.

3 (1) Information about the person filing this petition (the
4 petitioner.)

5 (a) Name:

6 (b) Principal residence:

7 (c) Current street address (if different):

8 (d) Relationship to minor:

9 (e) Interest in this petition:

10 (f) Telephone number (optional):

11 (g) Email address (optional):

12 (2) Information about the minor alleged to need a guardian.
13 Provide the following information to the extent known.

14 (a) Name:

15 (b) Age:

16 (c) Principal residence:

17 (d) Current street address (if different):

18 (e) If petitioner anticipates the minor moving, or seeks to
19 move the minor, proposed new address:

20 (f) Does the minor 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 (g) Telephone number (optional):

24 (h) Email address (optional):

25 (3) Information about the minor's parent(s).

26 (a) Name(s) of living parent(s):

27 (b) Current street address(es) of living parent(s):

28 (c) Does any parent need an interpreter, translator, or other
29 form of support to communicate with the court or understand court
30 proceedings? If so, please explain:

31

32

33 (4) People who are required to be notified of this petition.
34 State the name and current address of the people listed in
35 Appendix A.

36

37

38 (5) Appointment requested. State the name and address of any
39 proposed guardian and the reason the proposed guardian should be
40 selected.

1
2
3 (6) State why petitioner seeks the appointment. Include a
4 description of the nature and extent of the minor's alleged need.
5
6

7 (7) Property. If the minor has property other than personal
8 effects, state the minor's property with an estimate of its
9 value.
10
11

12 (8) Other proceedings. If there are any other proceedings
13 concerning the care or custody of the minor currently pending in
14 any court in this state or another jurisdiction, please describe
15 them.
16
17

18 (9) Attorney(s). If the minor or the minor's parent is
19 represented by an attorney in this matter, state the name,
20 telephone number, email address, and address of the attorney(s).
21
22

23 SIGNATURE

24
25 Signature of Petitioner	Date
26
27 Signature of Petitioner's Attorney if	Date
28 Petitioner is Represented by Counsel	

29 APPENDIX A:

30 People whose name and address must be listed in subsection
31 (4) of this petition if they are not the petitioner:
32 The minor, if the minor is twelve years of age or older;
33 Each parent of the minor or, if there are none, the adult
34 nearest in kinship that can be found;
35 An adult with whom the minor resides;
36 Each person that had primary care or custody of the minor for
37 at least sixty days during the two years immediately before the
38 filing of the petition or for at least seven hundred thirty days

1 during the five years immediately before the filing of the
2 petition;

3 If the minor is twelve years of age or older, any person
4 nominated as guardian by the minor;

5 Any person nominated as guardian by a parent of the minor;

6 The grandparents of the minor;

7 Adult siblings of the minor; and

8 Any current guardian or conservator for the minor appointed
9 in this state or another jurisdiction.

10 NEW SECTION. **Sec. 603.** PETITION FOR GUARDIANSHIP,

11 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to
12 petition for:

13 Guardianship for an adult;

14 Conservatorship for an adult or minor;

15 A protective arrangement instead of guardianship for an
16 adult; or

17 A protective arrangement instead of conservatorship for an
18 adult or minor.

19 Petition for Guardianship, Conservatorship, or Protective
20 Arrangement

21 State of:

22 County of:

23 Name and address of attorney representing petitioner, if
24 applicable:

25

26

27 Note to petitioner: This form can be used to petition for a
28 guardian, conservator, or both, or for a protective arrangement
29 instead of either a guardianship or conservatorship. This form
30 should not be used to petition for guardianship for a minor.

31 The court may appoint a guardian or order a protective
32 arrangement instead of guardianship for an adult if the adult
33 lacks the ability to meet essential requirements for physical
34 health, safety, or self-care because (1) the adult is unable to
35 receive and evaluate information or make or communicate decisions
36 even with the use of supportive services, technological
37 assistance, and supported decision making, and (2) the adult's
38 identified needs cannot be met by a less restrictive alternative.

1 The court may appoint a conservator or order a protective
2 arrangement instead of conservatorship for an adult if (1) the
3 adult is unable to manage property and financial affairs because
4 of a limitation in the ability to receive and evaluate
5 information or make or communicate decisions even with the use of
6 supportive services, technological assistance, and supported
7 decision making or the adult is missing, detained, or unable to
8 return to the United States, and (2) appointment is necessary to
9 avoid harm to the adult or significant dissipation of the
10 property of the adult, or to obtain or provide funds or other
11 property needed for the support, care, education, health, or
12 welfare of the adult, or of an individual who is entitled to the
13 adult's support, and protection is necessary or desirable to
14 provide funds or other property for that purpose.

15 The court may appoint a conservator or order a protective
16 arrangement instead of conservatorship for a minor if: (1) The
17 minor owns funds or other property requiring management or
18 protection that cannot otherwise be provided; or (2) it would be
19 in the minor's best interests, and the minor has or may have
20 financial affairs that may be put at unreasonable risk or
21 hindered because of the minor's age, or appointment is necessary
22 or desirable to provide funds or other property needed for the
23 support, care, education, health, or welfare of the minor.

24 The court may also order a protective arrangement instead of
25 conservatorship that restricts access to an individual or an
26 individual's property by a person that the court finds: (1)
27 Through fraud, coercion, duress, or the use of deception and
28 control, caused, or attempted to cause, an action that would have
29 resulted in financial harm to the individual or the individual's
30 property; and (2) poses a serious risk of substantial financial
31 harm to the individual or the individual's property.

32 (1) Information about the person filing this petition (the
33 petitioner.)

- 34 (a) Name:
- 35 (b) Principal residence:
- 36 (c) Current street address (if different):
- 37 (d) Relationship to respondent:
- 38 (e) Interest in this petition:
- 39 (f) Telephone number (optional):
- 40 (g) Email address (optional):

1 (2) Information about the individual alleged to need
2 protection (the "respondent"). Provide the following information
3 to the extent known.

- 4 (a) Name:
- 5 (b) Age:
- 6 (c) Principal residence:
- 7 (d) Current street address (if different):
- 8 (e) If petitioner anticipates respondent moving, or seeks to
9 move respondent, proposed new address:
- 10 (f) Does respondent need an interpreter, translator, or other
11 form of support to communicate with the court or understand court
12 proceedings? If so, please explain:

- 13
- 14 (g) Telephone number (optional):
- 15 (h) Email address (optional):
- 16 (3) People who are required to be notified of this petition.
17 State the name and address of the people listed in Appendix A.
18
19

- 20 (4) Existing agents. State the name and address of any person
21 appointed as an agent under a power of attorney for finances or
22 power of attorney for health care, or who has been appointed as
23 the individual's representative for payment of benefits.
24
25

- 26 (5) Action requested. State whether petitioner is seeking
27 appointment of a guardian, a conservator, or a protective
28 arrangement instead of an appointment.
29
30

- 31 (6) Order requested or appointment requested. If seeking a
32 protective arrangement instead of a guardianship or
33 conservatorship, state the transaction or other action you want
34 the court to order. If seeking appointment of a guardian or
35 conservator, state the powers petitioner requests the court grant
36 to a guardian or conservator.
37
38

1 (7) State why the appointment or protective arrangement
2 sought is necessary. Include a description of the nature and
3 extent of respondent's alleged need.

4
5

6 (8) State all less restrictive alternatives to meeting
7 respondent's alleged need that have been considered or
8 implemented. Less restrictive alternatives could include
9 supported decision making, technological assistance, or the
10 appointment of an agent by respondent including appointment under
11 a power of attorney for health care or power of attorney for
12 finances. If no alternative has been considered or implemented,
13 state the reason why not.

14
15

16 (9) Explain why less restrictive alternatives will not meet
17 respondent's alleged need.

18
19

20 (10) Provide a general statement of respondent's property and
21 an estimate of its value. Include any real property such as a
22 house or land, insurance or pension, and the source and amount of
23 any other anticipated income or receipts. As part of this
24 statement, indicate, if known, how the property is titled (for
25 example, is it jointly owned?).

26
27

28 (11) For a petition seeking appointment of a conservator.
29 (Skip this section if not asking for appointment of a
30 conservator.)

31 (a) If seeking appointment of a conservator with all powers
32 permissible under this state's law, explain why appointment of a
33 conservator with fewer powers (i.e., a "limited conservatorship")
34 or other protective arrangement instead of conservatorship will
35 not meet the individual's alleged needs.

36
37

38 (b) If seeking a limited conservatorship, state the property
39 petitioner requests be placed under the conservator's control and
40 any proposed limitation on the conservator's powers and duties.

1
2
3 (c) State the name and address of any proposed conservator
4 and the reason the proposed conservator should be selected.
5
6
7 (d) If respondent is twelve years of age or older, state the
8 name and address of any person respondent nominates as
9 conservator.
10
11
12 (e) If alleging a limitation in respondent's ability to
13 receive and evaluate information, provide a brief description of
14 the nature and extent of respondent's alleged limitation.
15
16
17 (f) If alleging that respondent is missing, detained, or
18 unable to return to the United States, state the relevant
19 circumstances, including the time and nature of the disappearance
20 or detention and a description of any search or inquiry
21 concerning respondent's whereabouts.
22
23
24 (12) For a petition seeking appointment of a guardian. (Skip
25 this section if not asking for appointment of a guardian.)
26 (a) If seeking appointment of a guardian with all powers
27 permissible under this state's law, explain why appointment of a
28 guardian with fewer powers (i.e., a "limited guardianship") or
29 other protective arrangement instead of guardianship will not
30 meet the individual's alleged needs.
31
32
33 (b) If seeking a limited guardianship, state the powers
34 petitioner requests be granted to the guardian.
35
36
37 (c) State the name and address of any proposed guardian and
38 the reason the proposed guardian should be selected.
39
40

1 (d) State the name and address of any person nominated as
2 guardian by respondent, or, in a will or other signed writing or
3 other record, by respondent's parent or spouse or domestic
4 partner.

5
6

7 (13) Attorney. If petitioner, respondent, or, if respondent
8 is a minor, respondent's parent is represented by an attorney in
9 this matter, state the name, telephone number, email address, and
10 address of the attorney(s).

11
12

13 SIGNATURE

14
15 Signature of Petitioner Date
16
17 Signature of Petitioner's Attorney if Date
18 Petitioner is Represented by Counsel

19 APPENDIX A:

20 People whose name and address must be listed in subsection
21 (3) of this petition, if they are not the petitioner.

22 Respondent's spouse or domestic partner, or if respondent has
23 none, any adult with whom respondent has shared household
24 responsibilities in the past six months;

25 Respondent's adult children, or, if respondent has none,
26 respondent's parents and adult siblings, or if respondent has
27 none, one or more adults nearest in kinship to respondent who can
28 be found with reasonable diligence;

29 Respondent's adult stepchildren whom respondent actively
30 parented during the stepchildren's minor years and with whom
31 respondent had an ongoing relationship within two years of this
32 petition;

33 Any person responsible for the care or custody of respondent;

34 Any attorney currently representing respondent;

35 Any representative payee for respondent appointed by the
36 social security administration;

37 Any current guardian or conservator for respondent appointed
38 in this state or another jurisdiction;

1 Any trustee or custodian of a trust or custodianship of which
2 respondent is a beneficiary;

3 Any veterans administration fiduciary for respondent;

4 Any person respondent has designated as agent under a power
5 of attorney for finances;

6 Any person respondent has designated as agent under a power
7 of attorney for health care;

8 Any person known to have routinely assisted the individual
9 with decision making in the previous six months;

10 Any person respondent nominates as guardian or conservator;
11 and

12 Any person nominated as guardian by respondent's parent or
13 spouse or domestic partner in a will or other signed writing or
14 other record.

15 NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT
16 TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify
17 an adult subject to guardianship or conservatorship of the adult's
18 rights under sections 311 and 412 of this act.

19 **Notification of Rights**

20 You are getting this notice because a guardian, conservator,
21 or both have been appointed for you. It tells you about some
22 important rights you have. It does not tell you about all your
23 rights. If you have questions about your rights, you can ask an
24 attorney or another person, including your guardian or
25 conservator, to help you understand your rights.

26 **General rights:**

27 You have the right to exercise any right the court has not
28 given to your guardian or conservator.

29 You also have the right to ask the court to:

30 End your guardianship, conservatorship, or both;

31 Increase or decrease the powers granted to your guardian,
32 conservator, or both;

33 Make other changes that affect what your guardian or
34 conservator can do or how they do it; and

35 Replace the person that was appointed with someone else.

36 You also have a right to hire an attorney to help you do any
37 of these things.

1 **Additional rights for persons for whom a guardian has been**
2 **appointed:**

3 As an adult subject to guardianship, you have a right to:

4 (1) Be involved in decisions affecting you, including
5 decisions about your care, where you live, your activities, and
6 your social interactions, to the extent reasonably feasible;

7 (2) Be involved in decisions about your health care to the
8 extent reasonably feasible, and to have other people help you
9 understand the risks and benefits of health care options;

10 (3) Be notified at least fourteen days in advance of a change
11 in where you live or a permanent move to a nursing home, mental
12 health facility, or other facility that places restrictions on
13 your ability to leave or have visitors, unless the guardian has
14 proposed this change in the guardian's plan or the court has
15 expressly authorized it;

16 (4) Ask the court to prevent your guardian from changing
17 where you live or selling or surrendering your primary dwelling
18 by following the appropriate process for objecting to such a move
19 in compliance with section 314(5) of this act;

20 (5) Vote and get married unless the court order appointing
21 your guardian states that you cannot do so;

22 (6) Receive a copy of your guardian's report and your
23 guardian's plan; and

24 (7) Communicate, visit, or interact with other people (this
25 includes the right to have visitors, to make and receive
26 telephone calls, personal mail, or electronic communications)
27 unless:

28 (a) Your guardian has been authorized by the court by
29 specific order to restrict these communications, visits, or
30 interactions;

31 (b) A protective order is in effect that limits contact
32 between you and other people; or

33 (c) Your guardian has good cause to believe the restriction
34 is needed to protect you from significant physical,
35 psychological, or financial harm and the restriction is for not
36 more than seven business days if the person has a family or
37 preexisting social relationship with you or not more than sixty
38 days if the person does not have that kind of relationship with
39 you.

1 **Additional rights for persons for whom a conservator has been**
2 **appointed:**

3 As an adult subject to conservatorship, you have a right to:

4 Participate in decisions about how your property is managed
5 to the extent feasible; and

6 Receive a copy of your conservator's inventory, report, and
7 plan.

8 **ARTICLE 7**

9 **MISCELLANEOUS PROVISIONS**

10 NEW SECTION. **Sec. 701.** REPEALS. The following acts or parts of
11 acts are each repealed:

12 (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977
13 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

14 (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c
15 312 s 2;

16 (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—
17 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,
18 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267
19 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c
20 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

21 (4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312
22 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c
23 145 s 11.88.020;

24 (5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s
25 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2,
26 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965
27 c 145 s 11.88.030;

28 (6) RCW 11.88.040 (Notice and hearing, when required—Service—
29 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c
30 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95
31 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

32 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical
33 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995
34 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &
35 1975 1st ex.s. c 95 s 7;

1 (8) RCW 11.88.080 (Guardians nominated by will or durable power
2 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &
3 1965 c 145 s 11.88.080;

4 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—
5 Qualifications—Notice of and statement by guardian ad litem—Hearing
6 and notice—Attorneys' fees and costs—Registry—Duties—Report—
7 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,
8 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977
9 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

10 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c
11 124 s 10;

12 (11) RCW 11.88.095 (Disposition of guardianship petition) and
13 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

14 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

15 (13) RCW 11.88.100 (Oath and bond of guardian or limited
16 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977
17 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

18 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s
19 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

20 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,
21 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s
22 11.88.107;

23 (16) RCW 11.88.110 (Law on executors' and administrators' bonds
24 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

25 (17) RCW 11.88.120 (Modification or termination of guardianship—
26 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c
27 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c
28 145 s 11.88.120;

29 (18) RCW 11.88.125 (Standby limited guardian or limited guardian)
30 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,
31 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st
32 ex.s. c 95 s 6;

33 (19) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of
34 guardianship) and 2011 c 329 s 6;

35 (20) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990
36 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

37 (21) RCW 11.88.140 (Termination of guardianship or limited
38 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,

1 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &
2 1965 c 145 s 11.88.140;

3 (22) RCW 11.88.150 (Administration of deceased incapacitated
4 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c
5 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

6 (23) RCW 11.88.160 (Guardianships involving veterans) and 1990 c
7 122 s 13;

8 (24) RCW 11.88.170 (Guardianship courthouse facilitator program)
9 and 2015 c 295 s 1;

10 (25) RCW 11.88.900 (Construction—Chapter applicable to state
11 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

12 (26) RCW 11.92.010 (Guardians or limited guardians under court
13 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &
14 1965 c 145 s 11.92.010;

15 (27) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c
16 95 s 19, & 1965 c 145 s 11.92.035;

17 (28) RCW 11.92.040 (Duties of guardian or limited guardian in
18 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985
19 c 30 s 9;

20 (29) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c
21 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

22 (30) RCW 11.92.050 (Intermediate accounts or reports—Hearing—
23 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st
24 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

25 (31) RCW 11.92.053 (Settlement of estate upon termination) and
26 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s
27 11.92.053;

28 (32) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s
29 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

30 (33) RCW 11.92.060 (Guardian to represent incapacitated person—
31 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975
32 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

33 (34) RCW 11.92.090 (Sale, exchange, lease, or mortgage of
34 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145
35 s 11.92.090;

36 (35) RCW 11.92.096 (Guardian access to certain held assets) and
37 1991 c 289 s 13;

38 (36) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975
39 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

- 1 (37) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,
2 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;
- 3 (38) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8
4 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s
5 11.92.115;
- 6 (39) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c
7 95 s 28 & 1965 c 145 s 11.92.120;
- 8 (40) RCW 11.92.125 (Broker's fee and closing expenses—Sale,
9 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s
10 15 & 1965 c 145 s 11.92.125;
- 11 (41) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s
12 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;
- 13 (42) RCW 11.92.140 (Court authorization for actions regarding
14 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s
15 32, 1990 c 122 s 32, & 1985 c 30 s 10;
- 16 (43) RCW 11.92.150 (Request for special notice of proceedings)
17 and 1990 c 122 s 33 & 1985 c 30 s 11;
- 18 (44) RCW 11.92.160 (Citation for failure to file account or
19 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s
20 11.92.160;
- 21 (45) RCW 11.92.170 (Removal of property of nonresident
22 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,
23 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;
- 24 (46) RCW 11.92.180 (Compensation and expenses of guardian or
25 limited guardian—Attorney's fees—Department of social and health
26 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994
27 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,
28 & 1965 c 145 s 11.92.180;
- 29 (47) RCW 11.92.185 (Concealed or embezzled property) and 1990 c
30 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;
- 31 (48) RCW 11.92.190 (Detention of person in residential placement
32 facility against will prohibited—Effect of court order—Service of
33 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c
34 249 s 11, & 1977 ex.s. c 309 s 14; and
- 35 (49) RCW 11.92.195 (Incapacitated persons—Right to associate with
36 persons of their choosing) and 2017 c 268 s 1.

37 NEW SECTION. **Sec. 702.** UNIFORMITY OF APPLICATION AND
38 CONSTRUCTION. In applying and construing this uniform act,

1 consideration must be given to the need to promote uniformity of the
2 law with respect to its subject matter among states that enact it.

3 NEW SECTION. **Sec. 703.** RELATION TO ELECTRONIC SIGNATURES IN
4 GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or
5 supersedes the electronic signatures in global and national commerce
6 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
7 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
8 authorize electronic delivery of any of the notices described in
9 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

10 NEW SECTION. **Sec. 704.** APPLICABILITY. This chapter applies to:

11 (1) A proceeding for appointment of a guardian or conservator or
12 for a protective arrangement instead of guardianship or
13 conservatorship commenced after the effective date of this section;
14 and

15 (2) A guardianship, conservatorship, or protective arrangement
16 instead of a guardianship or conservatorship in existence on the
17 effective date of this section unless the court finds application of
18 a particular provision of this act would substantially interfere with
19 the effective conduct of the proceeding or prejudice the rights of a
20 party, in which case the particular provision of this act does not
21 apply and the superseded law applies.

22 NEW SECTION. **Sec. 705.** SEVERABILITY. If any provision of this
23 act or its application to any person or circumstance is held invalid,
24 the remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 706.** Sections 101 through 604, 702 through
27 704, and 707 of this act constitute a new chapter in Title 11 RCW.

28 NEW SECTION. **Sec. 707.** EFFECTIVE DATE. This act takes effect
29 January 1, 2020.

--- END ---