

The report shall also include the estimates of the amounts required from these revenues for the payment of principal and interest on the bonds authorized by this act and proposals for the use of any remaining revenues for salmon enhancement purposes. The report shall also include a progress report on the current salmon enhancement programs.

The report shall be given to the following standing committees: the house committee on appropriations, the senate committee on ways and means, and the house and senate committees on natural resources.

NEW SECTION. Sec. 10. The bonds authorized by this chapter shall be issued only after the director of the department of fisheries has certified, based upon reasonable estimates and data provided to the department, that sufficient revenues will be available from sport and commercial salmon license sales and from salmon fees and taxes to meet the requirements of section 8 of this act during the life of the bonds.

NEW SECTION. Sec. 11. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body.

NEW SECTION. Sec. 12. Sections 1 through 11 of this act shall constitute a new chapter in Title 75 RCW.

NEW SECTION. Sec. 13. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House June 10, 1977.

Passed the Senate June 6, 1977.

Approved by the Governor June 21, 1977.

Filed in Office of Secretary of State June 21, 1977.

CHAPTER 309

[Substitute House Bill No. 183]

GUARDIANSHIP

AN ACT Relating to guardianship; amending section 1, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.005; amending section 11.88.010, chapter 145, Laws of 1965 as amended by section 2, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.010; amending section 11.88.030, chapter 145, Laws of 1965 as amended by section 4, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.030; amending section 11.88.040, chapter 145, Laws of 1965 as last amended by section 5, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.040; amending section 7, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.045; amending section 11.88.090, chapter 145, Laws of 1965 as amended by section 9, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.090; amending section 11.88.100, chapter 145, Laws of 1965 as amended by section 10, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.100; amending section 11.88.107, chapter 145, Laws of 1965 as amended by section 12, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.107; amending section 11.88.120, chapter 145, Laws of 1965 as amended by section 14, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.120; amending section 6, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.125; amending section 11.88.140, chapter 145, Laws of 1965 as amended by section 16, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.140; amending section 11.88.150, chapter 145, Laws of 1965 as amended by section 17, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.150; amending section 11.92.040, chapter 145, Laws of 1965 as amended by section 20, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.040; amending section 11.92.125, chapter 145, Laws of 1965 and RCW 11.92.125; amending section 11.92.170, chapter 145, Laws of 1965 as amended by section 32, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.170; adding a new section to

chapter 11.92 RCW; and repealing section 8, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.035.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88-.005 are each amended to read as follows:

It is the intent and purpose of the legislature to recognize that ~~((mentally retarded, developmentally disabled, and other allegedly mentally incompetent))~~ disabled persons have special and unique abilities and competencies with varying degrees of disability.

Such persons must be legally protected without the necessity for determination of total incompetency and without the attendant deprivation of civil and legal rights that such a determination requires.

Sec. 2. Section 11.88.010, chapter 145, Laws of 1965 as amended by section 2, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.010 are each amended to read as follows:

(1) The superior court of each county shall have power to appoint guardians for the persons and estates, or either thereof, of incompetent persons ~~((resident of the county))~~, and guardians for the estates of all such persons who are nonresidents of the state but who have property in such county needing care and attention.

An "incompetent" is any person who is either:

(a) Under the age of majority, as defined in RCW 11.92.010, or

(b) Incompetent by reason of ~~((insanity;))~~ mental illness, ~~((mental retardation))~~ developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his property or caring for himself or both.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of disabled persons, who by reason of their disability have need for protection and assistance, but who cannot be found to be fully incompetent, upon investigation ~~((by the court or any agency jointly designated by the mental health board and mental retardation board (or county social service administrative board where applicable) of the county where such person resides))~~ as provided by RCW 11.88.090 as now or hereafter amended. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and disabilities on a disabled person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incompetent nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

For the purposes of chapters 11.88 and 11.92 RCW the term "disabled person" ~~((includes, but is not limited to, an individual who is mentally retarded, mentally ill, developmentally disabled, or is gravely disabled))~~ means an individual who is in need of protection and assistance by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, but cannot be found to be fully incompetent.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incompetent or disabled person is domiciled, or if such person is a resident of a state institution for developmentally disabled persons, in either the county wherein such institution is located, the county of domicile, or the county wherein a parent of the alleged incompetent or disabled person is domiciled.

Sec. 3. Section 11.88.030, chapter 145, Laws of 1965 as amended by section 4, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.030 are each amended to read as follows:

(1) Any interested person or entity may file a petition for the appointment of himself or some other qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as now or hereafter amended as the guardian or limited guardian of an incompetent or disabled person. A petition for guardianship or limited guardianship shall state:

~~((1))~~ (a) The name, age, residence, and post office address of the incompetent or disabled person;

~~((2))~~ (b) The nature of his alleged incompetency in accordance with RCW 11.88.010;

~~((3))~~ (c) The approximate value and description of his property, including any compensation, pension, insurance, or allowance to which he may be entitled;

~~((4))~~ (d) Whether there is, in any state, a guardian or limited guardian for the person or estate of the alleged incompetent or disabled person;

~~((5))~~ (e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

~~((6))~~ (f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged incompetent or disabled person;

~~((7))~~ (g) The name and address of the person or institution having the care and custody of the alleged incompetent or disabled person;

~~((8))~~ (h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;

~~((9))~~ (i) The nature and degree of the alleged disability and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

~~((10))~~ (j) The requested term of the limited guardianship to be included in the court's order of appointment ~~((: PROVIDED, That))~~;

(2) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship ~~((unless))~~ if the petition alleges that the alleged incompetent or disabled person has ~~((an estate valued in excess of fifteen hundred))~~ total assets of a value of less than three thousand dollars.

(3) All petitions filed under the provisions of this section shall be heard within ~~((thirty))~~ forty-five days unless an extension of time is requested by a party within such forty-five day period and granted for good cause shown.

Sec. 4. Section 11.88.040, chapter 145, Laws of 1965 as last amended by section 5, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.040 are each amended to read as follows:

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given personally to the alleged incompetent or disabled person, if over fourteen years of age.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee only, or by personal service in the manner provided for services of summons, to the following:

(1) The alleged incompetent, disabled person, or minor, if under fourteen years of age;

(2) A parent, if the alleged incompetent or disabled person is a minor, and the spouse of the alleged incompetent or disabled person if any;

(3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incompetent or disabled person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing. If the petition is by a parent asking for his appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition be accompanied by the written consent of a minor of the age of fourteen years or upward, consenting to the appointment of the guardian or limited guardian asked for, or if the petition be by a nonresident guardian of any minor or incompetent or disabled person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

~~((In all guardianship and limited guardianship hearings))~~ The alleged incompetent or disabled person shall be present in court at the final hearing on the petition~~((If the petition for guardianship or limited guardianship states that the alleged incompetent or disabled person is physically unable to be present, the guardian ad litem may request the court to waive the requirement of the presence of the alleged incompetent at the hearing))~~: PROVIDED, That this requirement may be waived at the discretion of the court for good cause shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incompetent or disabled person and conduct the final hearing in the presence of the alleged incompetent or disabled person. Final hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

If presence of the alleged incompetent or disabled person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition.

Sec. 5. Section 7, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.045 are each amended to read as follows:

(1) An alleged incompetent or disabled person is entitled to independent legal counsel at his own expense to represent him in the procedure: PROVIDED, That if the alleged incompetent or disabled person is unable to pay for such representation

or should such payment result in substantial hardship upon such person the county shall be responsible for such costs: PROVIDED FURTHER, That when, in the opinion of the court, the rights and interests of an alleged or adjudicated incompetent or disabled person cannot otherwise be adequately protected and represented, the court on its own motion shall appoint an attorney at any time to represent such person.

(2) The alleged incompetent or disabled person is further entitled upon request to a jury trial on the issues of his alleged incompetency or disability((,with)). The standard of proof to be applied ((being)) in a contested case, whether before a jury or the court, shall be that of clear, cogent, and convincing evidence.

(3) In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a ((sworn)) medical report in writing from a physician selected by the guardian ad litem appointed pursuant to RCW 11.88.090 as now or hereafter amended pertaining to the alleged incompetent or disabled persons' degree of incompetency or disability((:PROVIDED, That the court may waive the filing of a sworn medical report)) including the medical history if reasonably available, the effects of any current medication on appearance or the ability to participate fully in the proceedings, and a medical prognosis specifying the estimated length and severity of any current disability.

Sec. 6. Section 11.88.090, chapter 145, Laws of 1965 as amended by section 9, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.090 are each amended to read as follows:

(1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180, as now or hereafter amended, shall affect or impair the power of any court to appoint a guardian to defend the interests of any incompetent or disabled person interested in any suit or matter pending therein, or to commence and prosecute any suit in his behalf.

(2) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incompetent or disabled person, who ((may)) shall be a person ((recommended by either the local mental health board or mental retardation board (or county social service administrative board where applicable), to represent the interests of the alleged incompetent or disabled person in response to any petition for guardianship or limited guardianship)) found or known by the court to

(a) be free of influence from anyone interested in the result of the proceeding;

(b) have the requisite knowledge, training, or expertise to perform the duties required by this section.

In making this determination the court shall give due consideration to the type of incompetency or disability alleged and to any recommendations made to the court by public or private agencies having appropriate experience or expertise: PROVIDED, That no guardian ad litem need be appointed if a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child if the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection (3) of this section. The appointment of a guardian ad litem shall have

no effect on the legal competency of the alleged incompetent or disabled person and such appointment shall not overcome the presumption of competency or full legal and civil rights of the alleged incompetent or disabled person.

(3) The guardian ad litem appointed pursuant to this section shall have the following duties:

(a) To meet and consult with the alleged incompetent or disabled person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his alleged incompetency or disability, the right to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To provide the court with a written report which shall include the following:

(i) A description of the degree of incompetency or disability;

(ii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought;

(iii) In the event the limited guardianship is ordered, its appropriate duration, and the limits and disabilities to be placed on the disabled person; and

(iv) Any expression of approval or disapproval made by the alleged incompetent or disabled person concerning the proposed guardian or limited guardian or guardianship or limited guardianship.

Such report shall also include a recommendation as to whether or not counsel should be appointed to represent the alleged incompetent or disabled person, and the reasons for such recommendation.

The investigation and report shall be made and forwarded to the court, with copies to the alleged incompetent or disabled person, and his attorney, if any has appeared, and to the petitioner, or his attorney within twenty days after appointment, unless an extension of time has been granted by the court for good cause shown;

(c) To arrange for a written medical report pursuant to RCW 11.88.045 as now or hereafter amended.

(4) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem and any other qualified person or organization to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to RCW 11.88.090(3)(b) as now or hereafter amended.

(5) The court appointed guardian ad litem shall have the authority, in the event that the alleged incompetent or disabled person is in need of emergency ((and)) life-saving medical services, and is unable to consent to such medical services due to ((incapacity)) incompetence or disability pending the hearing on the petition to give consent for such emergency ((and)) life-saving medical services on behalf of the alleged incompetent or disabled person.

(6) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incompetent or disabled person unless the court finds that such payment would result in substantial hardship upon such person, in

which case the county shall be responsible for such costs: PROVIDED, That if no guardian or limited guardian is appointed the court may charge such fee to the petitioner or the alleged incompetent or disabled person, or divide the fee, as it deems just; and if the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public or nonprofit agency.

Sec. 7. Section 11.88.100, chapter 145, Laws of 1965 as amended by section 10, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.100 are each amended to read as follows:

Before letters of guardianship are issued, each guardian or limited guardian shall take and subscribe an oath and, unless dispensed with by order of the court as provided in RCW 11.88.105, file a bond, with sureties to be approved by the court, payable to the state, in such sum as the court may fix, taking into account the character of the assets on hand or anticipated and the income to be received and disbursements to be made, and such bond shall be conditioned substantially as follows:

The condition of this obligation is such, that if the above bound A.B., who has been appointed guardian or limited guardian for C.D., shall faithfully discharge the office and trust of such guardian or limited guardian according to law and shall render a fair and just account of his guardianship or limited guardianship to the superior court of the county of, from time to time as he shall thereto be required by such court, and comply with all orders of the court, lawfully made, relative to the goods, chattels, moneys, care, management, and education of such incompetent or disabled person, or his or her property, and render and pay to such incompetent or disabled person all moneys, goods, chattels, title papers, and effects which may come into the hands or possession of such guardian or limited guardian, at such time and in such manner as the court may order or adjudge, then this obligation shall be void, otherwise to be and remain in full force and effect.

The bond shall be for the use of the incompetent or disabled person, and shall not become void upon the first recovery, but may be put in suit from time to time against all or any one of the obligors, in the name and for the use and benefit of any person entitled by the breach thereof, until the whole penalty is recovered thereon. The court may require an additional bond whenever for any reason it appears to the court that an additional bond should be given.

In all guardianships or limited guardianships of the person, and in all guardianship or limited guardianships of the estate, in which the ~~((inventory filed with the court shows))~~ petition alleges that the alleged incompetent or disabled person has total ~~((accumulated))~~ assets of a value of less than ~~((fifteen hundred))~~ three thousand dollars, the court may dispense with the requirement of a bond pending filing of an inventory confirming that the estate has total assets of less than three thousand dollars: PROVIDED, That the guardian or limited guardian shall swear to report to the court any changes in the ~~((accumulated))~~ total assets of the incompetent or disabled person increasing their value to over ~~((fifteen hundred))~~ three thousand dollars: PROVIDED FURTHER, That said guardian or limited

guardian shall file a yearly statement showing the monthly income of the incompetent or disabled person if said monthly income is over the sum of two hundred fifty dollars per month for any three consecutive months.

Sec. 8. Section 11.88.107, chapter 145, Laws of 1965 as amended by section 12, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.107 are each amended to read as follows:

In all cases where a bank or trust company, authorized to act as guardian or limited guardian, or where a nonprofit corporation is authorized under its articles of incorporation to act as guardian or limited guardian, is appointed as guardian or limited guardian, or acts as guardian or limited guardian under an appointment as such heretofore made, no bond shall be required: PROVIDED, That in the case of appointment of a nonprofit corporation court approval shall be required before any bond requirement of this chapter may be dispensed with.

Sec. 9. Section 11.88.120, chapter 145, Laws of 1965 as amended by section 14, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.120 are each amended to read as follows:

The court in all cases shall have power to remove guardians or limited guardians for good and sufficient reasons, which shall be entered of record, and to appoint others in their place or in the place of those who may die, who shall give bond and security for the faithful discharge of their duties as prescribed in RCW 11.88.100 as now or hereafter amended; and when any guardian or limited guardian shall be removed or die, and a successor be appointed, the court shall have power to compel such guardian or limited guardian removed to deliver up to such successor all goods, chattels, moneys, title papers, or other effects belonging to such incompetent or disabled person, which may be in the possession of such guardian or limited guardian so removed, or of the personal representatives of a deceased guardian or limited guardian, or in the possession of any other person or persons, or in the possession of a stand-by guardian or limited guardian and upon failure, to commit the party offending to prison, until he complies with the order of the court.

Sec. 10. Section 6, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.125 are each amended to read as follows:

The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incompetent or disabled person, shall file in writing with the court, a designated stand-by limited guardian or guardian to serve as limited guardian or guardian at the death or legal incompetency or disability of the court-appointed guardian or limited guardian. Such stand-by guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of incompetency or disability of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the ((original)) guardianship or limited guardianship ((was filed)) is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the stand-by guardian or limited guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the stand-by

guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

Letters of guardianship shall be issued to the stand-by guardian or limited guardian upon filing an oath and posting a bond as required by RCW 11.88.100 as now or hereafter amended. The oath may be filed prior to the appointed guardian or limited guardian's death. The provisions of RCW 11.88.100 through 11.88.110 as now or hereafter amended shall apply to stand-by guardians and limited guardians.

Sec. 11. Section 11.88.140, chapter 145, Laws of 1965 as amended by section 16, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.140 are each amended to read as follows:

(1) **TERMINATION WITHOUT COURT ORDER.** A guardianship or limited guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW 11.92.010 as now or hereafter amended, of any person defined as an incompetent or disabled person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding((:));

(b) By an adjudication of competency((:)) or an adjudication of termination of disability;

(c) By the death of the incompetent or disabled person;

(d) By expiration of the term of limited guardianship specified in the order appointing the limited guardian, unless prior to such expiration a petition has been filed and served, as provided in RCW 11.88.040 as now or hereafter amended, seeking an extension of such term.

(2) **TERMINATION ON COURT ORDER.** A guardianship or limited guardianship may be terminated by court order after such notice as the court may require:

(a) If the guardianship or limited guardianship is of the estate and the estate is exhausted;

(b) If the guardianship or limited guardianship is no longer necessary for any other reason.

(3) **EFFECT OF TERMINATION.** When a guardianship or limited guardianship terminates otherwise than by the death of the incompetent or disabled person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incompetent or disabled person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incompetent or disabled person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the incompetent's or disabled person's estate shall be determined by the law of decedents' estates.

Sec. 12. Section 11.88.150, chapter 145, Laws of 1965 as amended by section 17, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.150 are each amended to read as follows:

Upon the death of an incompetent or disabled person intestate the guardian or limited guardian of his estate has power under the letters issued to him and subject

to the direction of the court to administer the estate as the estate of the deceased incompetent or disabled person without further letters unless within forty days after death of the incompetent or disabled person a petition is filed for letters of administration or for letters testamentary and the petition is granted. If the guardian or limited guardian elects to administer the estate under his letters of guardianship or limited guardianship, he shall petition the court for an order transferring the guardianship or limited guardianship proceeding to a probate proceeding, and upon court approval, the clerk of the court shall re-index the cause as a decedent's estate, using the same file number which is assigned to the guardianship or limited guardianship proceeding. The guardian or limited guardian shall then be authorized to continue administration of the estate without the necessity for any further petition or hearing. Notice to creditors and other persons interested in the estate shall be published and may be combined with the notice of the guardian's or limited guardian's final account. This notice shall be published in the manner provided in RCW 11.40.010, once each week for three successive weeks, with proof by affidavit of the publication of such notice to be filed with the court. All claims which are not filed within four months after first publication or within four months after the date of filing of the copy of such notice to creditors with the clerk of the court, whichever is later, shall be barred against the estate. Upon the hearing, the account may be allowed and the balance distributed to the persons entitled thereto, after the payment of such claims as may be allowed. Liability on the guardian's or limited guardian's bond shall continue until exonerated on settlement of his account, and may apply to the complete administration of the estate of the deceased incompetent or disabled person with the consent of the surety. If letters of administration or letters testamentary are granted upon petition filed within forty days after the death of the incompetent or disabled person, the personal representative shall supersede the guardian or limited guardian in the administration of the estate and the estate shall be administered as a decedent's estate as provided in this title, including the publication of notice to creditors and other interested persons and the barring of creditors claims.

Sec. 13. Section 11.92.040, chapter 145, Laws of 1965 as amended by section 20, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.040 are each amended to read as follows:

It shall be the duty of the guardian (~~and~~) or limited guardian:

(1) To make out and file within three months after his appointment a verified inventory of all the property of the incompetent or disabled person which shall come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item((-));

(2) To file annually, within thirty days after the anniversary date of his appointment, and also within thirty days after termination of his appointment, a written verified account of his administration: PROVIDED, That the court in its discretion may allow such reports at intervals of up to thirty-six months, with instruction to the guardian or limited guardian that any substantial increase in income or assets or substantial change in the incompetent's or disabled person's condition shall be reported within thirty days of such substantial increase or change((-));

(3) Consistent with the powers granted by the court, if he is a guardian or limited guardian of the person, to care for and maintain the incompetent or disabled person, assert his or her rights and best interests, and provide timely informed consent to necessary medical procedures, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation, or profession. The guardian or limited guardian of the person may be required to report the condition of his incompetent or disabled person to the court, at regular intervals or otherwise as the court may direct((-): PROVIDED, That no guardian or limited guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incompetent or disabled person who is, himself or herself, unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapters 71.05 or 72.23 RCW are followed: PROVIDED FURTHER, That nothing in this section shall be construed to allow a guardian or limited guardian to consent to:

(a) Therapy or other procedure which induces convulsion;

(b) Surgery solely for the purpose of psychosurgery;

(c) Amputation;

(d) Other psychiatric or mental health procedures which are intrusive on the person's body integrity, physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian or limited guardian who believes such procedures to be necessary for the proper care and maintenance of the incompetent or disabled person shall petition the court for an order unless the court has previously approved such procedure within thirty days immediately past. The court may make such order only after an attorney is appointed in accordance with RCW 11.88.045, as now or hereafter amended, if none has heretofore appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040, as now or hereafter amended;

(4) If he is a guardian or limited guardian of the estate, to protect and preserve it, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required of him by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incompetent or disabled person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 30.99.070 for ((periods)) a period not exceeding one year from the date of the order((-)) or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the incompetent or disabled person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 30.24 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the

court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period (~~(of)~~) not exceeding one year following the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer, to invest and reinvest as provided in chapter 30.24 RCW without further order of the court(~~(:)~~);

(b) If it is for the best interests of the incompetent or disabled person that a specific property be used by the incompetent or disabled person rather than sold and the proceeds invested, the court may so order(~~(:)~~);

(6) To apply to the court for an order authorizing any disbursement on behalf of the incompetent or disabled person(~~(; provided, however)~~): **PROVIDED, HOWEVER,** That guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, or if the guardian or limited guardian of the estate has the care and custody of the incompetent or disabled person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incompetent or disabled person and of his dependents. In proper cases, the court may order payment of amounts directly to the incompetent or disabled person for his maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under such order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof.

NEW SECTION. Sec. 14. There is added to chapter 11.92 RCW a new section to read as follows:

No residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an incompetent or disabled person shall be void and of no force or effect.

Nothing in this section shall be construed to require a court order authorizing placement of an incompetent or disabled person in a residential treatment facility if such order is not otherwise required by law: **PROVIDED,** That notice of any residential placement of an incompetent or disabled person shall be served, either before or after placement, by the guardian or limited guardian on such person, the guardian ad litem of record, and any attorney of record.

Sec. 15. Section 11.92.125, chapter 145, Laws of 1965 and RCW 11.92.125 are each amended to read as follows:

In connection with the sale, exchange, mortgage, lease, or grant of easement or license in any property, the court may authorize the (~~(personal representative)~~) guardian or limited guardian to pay, out of the proceeds realized therefrom or out

of the estate, the customary and reasonable auctioneer's and broker's fees and any necessary expenses for abstracting title insurance, survey, revenue stamps, and other necessary costs and expenses in connection therewith.

Sec. 16. Section 11.92.170, chapter 145, Laws of 1965 as amended by section 32, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.170 are each amended to read as follows:

Whenever it is made to appear that it would be in the best interests of the incompetent or disabled person, the court may order the transfer of property in this state to a guardian or limited guardian of the estate of the incompetent or disabled person appointed in another jurisdiction, or to a person or institution having similar authority with respect to the incompetent or disabled person.

NEW SECTION. Sec. 17. Section 8, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.035 are each repealed.

NEW SECTION. Sec. 18. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House June 13, 1977.

Passed the Senate June 11, 1977.

Approved by the Governor June 21, 1977.

Filed in Office of Secretary of State June 21, 1977.

CHAPTER 310

[House Bill No. 649]

COSMETOLOGY

AN ACT Relating to cosmetology; amending section 7, chapter 180, Laws of 1951 as last amended by section 15, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.18.140; and amending section 11, chapter 52, Laws of 1957 as last amended by section 29, chapter 148, Laws of 1973 1st ex. sess. and RCW 18.18.260.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 11, chapter 52, Laws of 1957 as last amended by section 29, chapter 148, Laws of 1973 1st ex. sess. and RCW 18.18.260 are each amended to read as follows:

No person shall engage in the practice of hairdressing(~~(, and)~~) or cosmetology in any place other than a licensed hairdressing (~~(and)~~) or cosmetology shop or school, except in case of his or her own family or in case of a (~~(person)~~) customer whose physical condition prevents his or her presence at a shop or school.

No person shall (~~(sleep in, or)~~) use for residential purposes(~~;~~) any room that is used wholly or in part as a hairdressing (~~(and)~~) or cosmetology school or shop, (~~(nor engage in hairdressing and cosmetology in any room used for sleeping or residential purposes)~~) except that these restrictions shall not apply to toilet facilities which may be used jointly for residential and business purposes.

Every hairdressing (~~(and)~~) or cosmetology shop shall maintain an outside entrance separate from the entrances to rooms used for sleeping or residential purposes.