

**Slide 1** (no suggested changes).



*Voice Over Narrative:*

Welcome to the Administrative Office of the Courts training for Lay Guardians.

**Slide 2** (no suggested changes).



*Voice Over Narrative:*

Hello, I'm Teresa Koza, Supervisor of the Guardianship Facilitators in the King County Superior Court. Welcome to Guardianship 101, the Washington Courts online training for persons seeking appointment as guardian, as well as those currently serving.

Assisting another person with their personal and financial decisions is a significant undertaking and we applaud you for your willingness to help. Guardianship 101 has been developed to help you understand and carry out the duties and responsibilities as guardian. It will provide you with a solid foundation of information to become a good guardian. However, guardianship involves much more than can be taught in an on-line presentation. Therefore, we encourage you to take advantage of the resources listed under the Resources tab.

Slide 3 (no suggested changes).

## Navigating the Presentation

The screenshot shows a presentation player interface. On the left is a vertical navigation menu with buttons for Home, Authors, Resources, and Vocabulary. The main area is titled 'Presentation View' and displays a slide with the title 'Guardianship 101 For Lay Guardians' and a 'Welcome' message. A circular portrait of a woman is on the right side of the slide. At the bottom of the slide are logos for 'WASHINGTON COURTS' and 'WASHINGTON COURTS Electronic Communication, Collaboration & Learning'. A play button and progress indicator are at the bottom of the slide area. On the right is a 'Sidebar' titled 'Guardianship 101 Overview' with a profile picture of Teresa Kozak, Supervisor, King County Family Law Facilitator Program. Below this is a 'Category Panes' section with four tabs: Outline, Thumb, Notes, and Search. The 'Outline' tab is active, showing a list of slides with their titles and durations. The current slide, 'Welcome', is highlighted. At the bottom of the sidebar, it says 'Minutes 26 Seconds Remaining'. Logos for 'WASHINGTON COURTS' and 'WASHINGTON COURTS Electronic Communication, Collaboration & Learning' are also present at the bottom of the sidebar area.

Slide Title	Duration
Slide 1	00:10
Welcome	00:10
Navigation	00:27
Thumb Pane	00:10
Notes Pane	00:10
Search Pane	00:10
Presentation Playbar	01:01
Presentation Playbar (...)	00:10
Overview	00:10
Authors	00:10
What is a Guardianship?	00:10

*Voice Over Narrative:*

Before we begin, let's learn how to navigate the presentation.

This example displays the presentation slides in the main part of the window and the sidebar is open to the right.

The sidebar contains four category panes: Outline, Thumb, Notes, and Search.

- The entire slide title appears when the pointer is held over the title.
- The duration of the slide is shown next to each slide.

The Outline pane has the following helpful features:

- The current slide appearing in the main window, or Presentation View, is highlighted.
- You can select to view any slide in the presentation by clicking the slide tab.

Slide 4 (no suggested changes).

## Navigating the Presentation

The screenshot displays a presentation interface. On the left is a vertical navigation menu with buttons for Home, Authors, Resources, and Vocabulary. The main area is titled 'Presentation View' and shows a slide with the text 'Guardianship 101 For Lay Guardians' and 'Welcome' next to a circular portrait of a woman. The bottom of the slide features the Washington Courts logo and the text 'WASHINGTON COURTS eLECTRONIC COMMUNICATIONS, COLLABORATION & LEARNING'. A video player control bar at the bottom indicates 'Slide 2 / 13 | Stopped' and '00:02 / 00:10'. On the right is a 'Sidebar' titled 'Guardianship 101: Overview' featuring a profile for Teresa Koza, Supervisor of the King County Family Law Facilitator Program. Below the profile are tabs for Outline, Thumb, Notes, and Search. The 'Thumb' pane is active, showing a list of slides with thumbnails, titles, and durations: Slide 1 (00:10), Welcome (00:10), and Navigation (00:27). A progress indicator at the bottom of the sidebar shows '8 Minutes 26 Seconds Remaining'. The Washington Courts logo is also present at the bottom right of the sidebar area.

*Voice Over Narrative:*

The Thumb pane shows a small picture of each slide, the slide title, and the slide duration. Use the Thumb pane to view the contents of each slide quickly and move to a specific slide in the presentation.

Slide 5 (no suggested changes).

## Navigating the Presentation

The screenshot displays a presentation interface. On the left is a vertical navigation menu with buttons for Home, Authors, Resources, and Vocabulary. The main area is a video player showing a slide titled "Guardianship 101 For Lay Guardians" with a "Welcome" message and a photo of Teresa Koza. To the right of the video is a "Sidebar" with a "Notes" pane containing the following text:

**Guardianship 101 Overview**

**Teresa Koza**  
Supervisor, King County Family Law Facilitator Program  
Bio

Outline Thank **Notes** Search

Slide Notes

Hello, I'm Teresa Koza, Supervisor of the Guardianship Facilitators in the King County Superior Court. Welcome to Guardianship 101, the Washington Courts online training for persons who are seeking to be appointed by the court to serve as the guardian of another person.

Assisting another person with their personal and financial decisions is a significant undertaking and we applaud you for your willingness to help. Guardianship 101 has been developed to help you understand and carry out the duties and responsibilities you have assumed as a guardian. It will provide you with a solid foundation of information to become a good guardian. However, guardianship involves much

8 Minutes 26 Seconds Remaining

WASHINGTON COURTS Electronic Communication, Collaboration & Learning

*Voice Over Narrative:*

The Notes pane displays the text associated with a slide.

Slide 6 (no suggested changes).

## Navigating the Presentation

The screenshot displays a presentation interface. On the left is a vertical navigation menu with buttons for Home, Authors, Resources, and Vocabulary. The main presentation area shows a slide titled "Guardianship 101 For Lay Guardians" with a "Welcome" message and a circular portrait of a woman. A sidebar on the right, titled "Guardianship 101 Overview", features a search tab, a search input field, and a list of slide titles. The bottom of the slide includes the Washington Courts logo and a progress bar indicating "Slide 2 / 13 | Stopped".

*Voice Over Narrative:*

The Search pane is useful to find specific text in a presentation. Click the Search tab to open it. Type the text to search in the text box, then click the Search button. Presentation slides containing your search criteria display below the text box. Click any slide title in the results list to display that slide.

Slide 7 (no suggested changes).



*Voice Over Narrative:*

When the sidebar displays on the right, the presentation toolbar displays at the bottom. It contains useful buttons, controls, and messages.

The Play/Pause button pauses and then resumes the current slide. The Back button moves to the previous slide in the presentation. The Forward button moves to the next slide.

The Slide Progress bar shows and controls the playback location within the current slide. The position marker moves as the slide plays.

Status shows the current status of the slide, such as Playing, Stopped, No audio, or Presentation complete.

Time shows the current slide time and total slide time as the slide plays. Audio Volume shows the volume level that is set for the slide.

The Attachments button displays a small window showing attachments that have been added. Attachments may include documents, images, spreadsheets, or URL addresses.

Show/Hide Sidebar and Toolbar button toggles the view between the sidebar opening on the right or hiding the sidebar.

**Slide 8** (no suggested changes).



*Voice Over Narrative:*

Switching the view to hide the sidebar moves the Presentation toolbar buttons to the right side of the screen.

## Slide 9.

- Overview of the Guardianship Process.
- Duties of the Guardian of the Person.
- Duties of the Guardian of the Estate.
- ~~Completing Guardianship Forms~~

*Voice Over Narrative:*

Let's begin.

To help you understand your duties as a guardian, this curriculum will cover the following topics:

1. Overview of the guardianship process.
2. Duties of the guardian of the person.
3. Duties of the guardian of the estate.
4. ~~Completing the guardianship forms.~~

Each topic in this course can be viewed in one sitting or over the course of several sittings.

~~Upon the completion of the Guardian of the Person and Guardian of the Estate modules, you will be asked to complete a short question and answer section to help you retain what you have just learned. After you have completed the question and answer section you will return to the main page where you can choose the next topic you would like to view.~~

## Slide 10.

### What is a Guardianship?

- A legal process through which an individual or a business corporate fiduciary is given the legal authority by the court to make decisions for another person.

### Incapacitated Person (IP)

- The person under subject to guardianship.
- Significant risk of harm
  - Personal;
  - Financial; or
  - Both.
- Based on demonstrated inability to adequately:
  - Manage property or financial affairs;
  - Provide for nutrition, health, housing, or physical safety; or
  - Both

### *Voice Over Narrative:*

In this section we will review some common terms you will hear and need to understand as a guardian. Let's begin by defining the term guardianship.

Guardianship refers to a legal process through which an individual or a business corporate fiduciary, such as a bank or a certified professional guardian, is given the authority by the court to make decisions for another person. The guardian serves under the general direction and control of the court.

An "incapacitated person" is the person subject to guardianship. A Guardian of the Person is appointed for a person when the Court finds significant risk of personal harm based on a demonstrated inability to adequately provide for his/her nutrition, health, housing or physical safety. A Guardian of the Estate is appointed for a person when the Court finds significant risk of financial harm based on a demonstrated inability to adequately manage his/her property or financial affairs.

Washington's guardianship laws can be found in Title 11.88 and 11.92 of the Revised Code of Washington. See Resources.

**Slide 11** (suggested addition of new slide).

Who might need a guardian?

- A child with a disability who is turning 18
- A person who is being abused, neglected, or exploited
- A person who has dementia and can't live independently
- A person who cannot manage their money to meet their needs
- A person who cannot make health care decisions

*Voice Over Narrative:*

There are many reasons for creating a guardianship. Before petitioning for guardianship, it is important to determine whether guardianship is the most effective and least restrictive means of protecting the person from threats to his or her well-being. The appointment of a guardian should be the last resort.

**Slide 12** (suggested addition of new slide).

Legislative Statement of Intent

- To protect liberty and autonomy
- To allow people to exercise own rights
  - to maximum extent possible
  - consistent with capacity
- To recognize that people with incapacities
  - have unique abilities and needs
  - may need guardians to exercise rights or provide for basic needs
- To restrict liberty and autonomy through guardianship *only to the minimum extent necessary to adequately:*
  - provide for health or safety;
  - manage financial affairs; or
  - both

*Voice Over Narrative:*

In Washington's guardianship law, the state legislature included a statement of intent in order to explain the reasons for guardianship. The statement reads as follows:

It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs.

This statement indicates that the guardian's role is to advocate for the rights of the person, and help make the most of the person's abilities, with as minimal restrictions as needed. As guardian, you will not have the authority to make all decisions in the person's life, and you should not attempt to control the financial, social, health care and other decisions of the person, except where this is necessary to protect the person. You will have an ongoing duty to report to the court any changes in the incapacitated person's needs for a guardian.

**Slide 13** (suggested addition of new slide).

Less Restrictive Alternatives to Guardianship

- Trusts, including Special Needs Trust
- Durable Power of Attorney
- Representative Payee
- Joint Bank Account
- Informed Consent for Healthcare (Persons Authorized by Statute)

*Voice Over Narrative:*

Because a person subject to guardianship loses many important rights, less restrictive alternatives must be considered prior to establishing a guardianship. Often, if you ask yourself “Why set up a guardianship?” you will find that a less restrictive alternative will provide the protection that is needed. For example:

- A durable power of attorney provides legal authority to act on behalf of another person. A person who has been given a durable power of attorney acts as a substitute decision maker for health care decisions, financial affairs, or both.
- A representative payeeship or trust may provide the support that is needed when the primary concern is that the person cannot manage finances.
- The informed consent statute designates certain persons to make health care decisions. For instance, a spouse may make informed medical consent decisions for the other spouse and a parent may make informed medical consent decisions for an unmarried child.

The appointment of a guardian should be the last resort. For more information, see “Alternatives to Guardianship for Adults” on the WA Law Help website at [http://www.washingtonlawhelp.org/documents/1487813302EN.pdf?stateabbrev=WA/.](http://www.washingtonlawhelp.org/documents/1487813302EN.pdf?stateabbrev=WA/)]

Slide 14 (originally slide 3 from Person module).

Guardianship Terms to Know

- ~~Incapacitated Person.~~
- Guardian
  - Professional Guardian
  - Lay Guardian
- ~~and~~-Co-Guardian.
- Fiduciary.
- Letters of Guardianship (issued by the clerk).

*Voice Over Narrative:*

There are ~~a number of~~additional terms that you should become familiar with for a better understanding of your role as guardian. ~~First is the term “Incapacitated Person”.~~

~~It is up to the court to determine if a person is incapacitated and in need of a guardianship. The determination of incapacity is a legal rather than a medical one. It is based upon a finding that due to a disability or impairment a person has the functional demonstrated inability to provide for his or her needs and is at a significant risk of physical, emotional or financial harm.~~

~~The term guardian, of course, describes the role that you will be fulfilling in meeting the needs of the incapacitated person. A “guardian” is a person or a professional agency appointed by a court to assist and protect a person who is legally incapable of managing his or her own affairs. In Washington, there are “professional guardians” and “lay guardians.”~~

- ~~A professional guardian is a court-appointed guardian who charges fees to serve as guardian for three or more incapacitated persons who are not members of the professional guardian’s family.~~
- ~~In contrast, a lay guardian may be a member of the incapacitated person’s and may charge fees, but may not serve more than two incapacitated persons. Although many lay guardians opt not to charge for their services, lay guardians are not barred from doing so.~~

If you are serving with another person, you are known as co-guardians. Each co-guardian must sign all guardianship documents filed with the court.

Another important term is “fiduciary.” When you are appointed guardian you enter into what is known as a fiduciary relationship with the incapacitated person. It is important to understand what this means. As a fiduciary, a guardian owes the highest duty of care to the

incapacitated person. This is an important position of trust. As guardian, you must always act with honesty, fidelity and loyalty toward the person for whom you are serving. You must put the interests of the incapacitated person before your own.

A guardian must avoid conflicts of interest and self-dealing. Conflicts of interest or self-dealing arise when you are considering a transaction in which there is a potential for financial gain for yourself, a family member or someone in a close relationship with you. ~~An example of a conflict of interest might be a decision to place the incapacitated person in a care facility in which you have an ownership interest. This type of transaction would be prohibited unless specifically approved by the court after full disclosure of the conflict. The court would be unlikely to grant approval absent compelling circumstances.~~ You must never take advantage of your position as guardian for personal profit at the expense of the incapacitated person.

The last term that you should be familiar with is “Letters of Guardianship.” This is the formal document that entitles you to act on behalf of the incapacitated person. These letters are issued by the clerk of the court. Before issuing letters, the clerk will review the Order Appointing you, your Oath of Guardian, your Bond, if required, and make sure you have met all the legal requirements to function as guardian. Although there will be an Order that appoints you, this is not the document that authorizes you to act on behalf of the incapacitated person. The Letters of Guardianship serve this purpose. Any time you interact with financial institutions or care providers on behalf of the incapacitated person you should provide a copy of your letters as proof of your authority to act.

**Slide 15** (originally slide 11 from Introduction module).

### Types of Guardianship

#### Guardianship of the Person

- Residential Decisions.
- Medical Decisions.

#### Guardianship of the Estate

- Financial Decisions.

#### *Voice Over Narrative:*

There are two types of guardianships, guardianship of the person and guardianship of the estate.

The guardian of the person makes decisions about issues which affect the incapacitated person's personal ~~wellness~~well-being, such as where they live and medical treatment. The guardian of the estate makes financial decisions for the incapacitated person such as paying their bills and managing their money.

You may be appointed as guardian of the person, guardian of the estate, or both.

Under Washington State statutes, once a guardianship is established, the guardian serves under the general direction and control of the court. Always read the court's order to determine the court's direction for the guardian's duties and responsibilities.

**Slide 16** (originally slide 12 from Introduction module).

### Scope of the Guardianship

#### Full

- Authority to Make All Decisions Granted Under the Law.

#### Limited

- Authority to Make Only Specific Types of Decisions.

#### *Voice Over Narrative:*

The scope of the guardianship refers to the range of the guardian's decision-making authority.

A full guardian of the person and/or estate has the authority to make all decisions granted under the law whereas a limited guardian of the person and/or estate only has the authority to make more limited decisions. The order appointing the guardian should clearly set forth the powers and responsibilities of the guardian. -set out in the Order Appointing Guardian.

~~So now that we know what a guardianship is, the difference between guardian of the person and guardian of the estate, and the scope of the guardianship, we have completed the overview section.~~

Slide 17 (originally slide 4 from Person module).

### The Role of the Guardian

- A guardian is authorized to make decisions on behalf of the incapacitated person.
- Decision-Making Standards:
  - a. Default Standard– “Substituted Judgment”
  - b. Alternative Standard– “Best Interest”

#### *Voice Over Narrative:*

In a guardianship, the court ~~takes can take away~~ from the incapacitated person the right to make personal and financial decisions. important life decisions regarding such things as medical care and place of residence. The right to make these decisions is given to the guardian. When making decisions, the guardian should consult with the incapacitated person, as is practical, to determine their wishes. Those wishes must be given substantial weight.

When making a decision on behalf of an incapacitated person a guardian is expected to follow certain decision-making standards. The primary standard for decision-making is the “substituted judgment” standard. Here, the guardian must make a decision that best reflects what the incapacitated person would have decided when he or she had capacity. This involves examining both current preferences and past statements or actions of the incapacitated person to determine his or her values and preferences.

However, it is not always possible to determine current and past preferences of the incapacitated person. This would be the case if the incapacitated person was incapacitated from birth. In that event, the guardian must use the alternate decision-making standard known as “the best interest standard.” When using this standard, the guardian must use his or her judgment to makes a decision that best reflects the guardian’s judgment as to decide what is in the best interest of the incapacitated person.

~~When making decisions under either standard, the guardian should attempt to consult with the incapacitated person to determine his/her wishes. Those wishes should be taken into account if that can be done without resulting in harm to the incapacitated person. However, it is the guardian’s duty to make the final decision.~~

**Slide 18** (originally slide 5 from Person module).

Expectations of Guardians

- Always Put the Incapacitated Person's Needs First.
- Make Full Disclosure to the Incapacitated Person.

*Voice Over Narrative:*

As guardian, you will be expected to always put the incapacitated person's needs above your own.

You will need to provide full disclosure to the incapacitated person of your decisions and actions on his or her behalf. Understand this may not always be easy for you or the incapacitated person. You must do this in a manner and to the extent that the incapacitated person can understand and appreciate this information.

**Slide 19** (originally slide 2 from Person module).

- The Court Will Review the Guardian’s Reports.
- There are Both State and County Specific Model Guardianship Forms.
- Forms at [www.courts.wa.gov/forms/](http://www.courts.wa.gov/forms/)

*Voice Over Narrative:*

When you are appointed, an ongoing relationship between the court and you as the guardian is created. The court is often referred to as the “Super Guardian” because of its duty to monitor and direct the activities of the guardian. The court will monitor your compliance with procedural requirements and the timeliness for filing various reports. It will also address any substantive issues that arise during the administration of the guardianship

You will be required to file periodic reports and prepare orders for the court’s approval. Model forms have been developed to make this part of your job easier. These forms are available online and are updated periodically to reflect changes in the law. You can find the state’s model forms on the Washington State Court website. However, several counties, such as Clark, King, Snohomish and Spokane may require that you use local forms which can be found on the website for each court. See Forms on the Resource tab. Check with your local court first. If it does not require the use of local forms, you may use the state model forms. Also if you want to learn what our state’s statutes say about a particular issue relating to guardianship, please see RCW Title 11 on the Resource tab.

**Slide 20** (originally slide 16 from Estate module).

Public vs. ~~Confidential~~ Sealed Documents

- The Public Guardianship File.
- ~~The Confidential Guardianship File~~ Sealed Documents.
- Routine Guardianship Reports Accessible to Public.

*Voice Over Narrative:*

Let's discuss the topic of confidentiality as it relates to guardianship files. Every guardianship case has a public court file. This is open to inspection by any member of the public. This is consistent with the strong policy in the state of Washington that the activities of the government be conducted openly. The general rule is that all your reports will be filed in this public file. However, ~~every-most~~ guardianship ~~case files will~~ also have sealed documents. ~~s a confidential file. The guardian should have access to the sealed documents. This may only be accessed by judge or court staff. The confidential file is needed to guard against identity theft or the disclosure of sensitive personal information.~~

**Slide 21** (suggested addition of new slide).

- Guardianship Law is Complicated.
- Local County Rules and Practices Vary Considerably.
- You May Need the Help of a Lawyer.
- WSBA Lawyer Directory.
  - www.wsba.org — Select “Area of Practice” and then “Guardianship”
  - 800-945-WSBA (9722)

*Voice Over Narrative:*

This training program is intended to provide lay guardians a broad overview of guardianships. It is not intended as legal advice.

Guardianship rules and procedures are complicated. Guardianships are subject to both statewide laws and local county rules.

Before taking steps you don't understand, you should get individualized legal advice.

The Washington State Bar Association offers a Lawyer Directory. The bar's toll-free number is 800-945-WSBA (9722). To access the online directory, go to [www.wsba.org](http://www.wsba.org) and select “Lawyer Directory.” The directory is searchable by name, city, practice area, language, and other criteria. In the “Area of Practice” field, you may select “guardianship” from the drop-down list.

**Slide 22** (originally slide 13 from Introduction module).

Thank you!

You may now close your browser window ~~to return to the curriculum and~~ proceed to the Guardianship of the Person module.

*Voice Over Narrative:*

Thank you! You may now close your browser window ~~to return to the curriculum and~~ proceed to the Guardianship of the Person training module.