

Exploring the Uniform Guardianship Act in Washington State

The 2019 Washington Legislative Session brought significant changes to adult and minor guardianship law with the passage of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA). The UGA repeals existing guardianship and nonparental custody statutes and emphasizes less restrictive alternatives through the use of person centered terminology, emergency guardianship, and other protective arrangements. Other changes are highlighted in [Table 2. Comparison of UGA and Repealed Statute](#), found on the next page. [Table 2.](#) highlights Articles 1 (General Provisions), 3 (Guardianship of Adult) and 4 (Conservatorship) and there effects.

Table 1. Description of effective changes to Guardianship Law in WA State.

Effect	Description
Terminology	The UGA repeals and replaces terms once commonplace in statute, case law and regulation.
Uncertainty	New law lacks details, compared to former, which may impact implementation.
Void	Essential provisions in former law no longer exist in the UGA.
Limitations	UGA restricts rights identified under former law.
Due Process	New law appears to lack important protections afforded under due process.
Expansion	The guardian or conservator’s authority is expanded under new law.

Articles 5 (Other Protective Arrangements) and 7 (Certified Professional Guardianship Board of Resolution Grievances) establishes new processes in Washington. Courts may establish other protective arrangements in lieu of a guardianship or conservatorship. In doing this, they will rely on the same standard used to establish a guardianship or conservatorship but create orders for specific, one time actions or to institute a less restrictive alternative. No right to a jury trial is specified under Art. 5. Special agents are introduced and appear to assist court in unique proceedings but no details are provided regarding their authorities, duties, and credentials. Art. 7 shifts the role of investigation of complaints and determination of sanctions or other measures against guardians from the certified professional guardian board to the superior courts.

The UGA takes effect on January 1, 2021 in Washington.

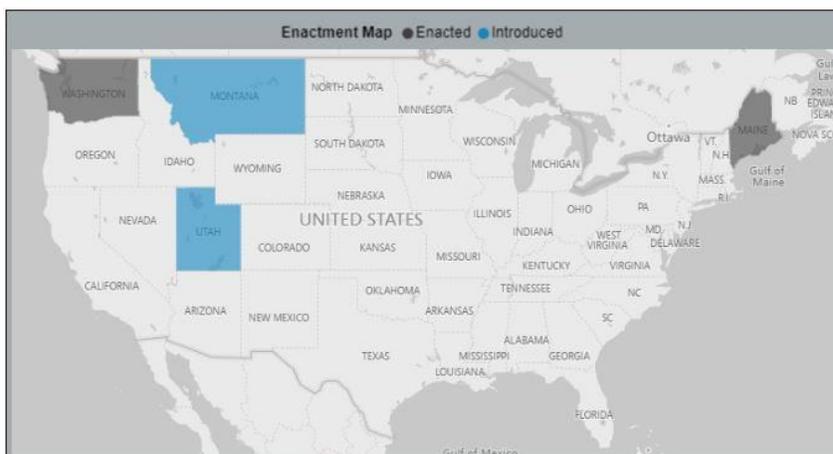


Figure 1. Uniform Law Commission tracks the UGA; See <https://www.uniformlaws.org>

Table 2. Comparison of UGA and Repealed Statute

Section	Effect	Comparison
102(5)&(10); Sec 313(3)(b)&(c)	Terminology, uncertainty	Currently, a guardian of the estate and guardian of the person have clearly defined roles. Under the UGA, a conservator makes decisions regarding the estate while a guardian makes decisions regarding personal affairs as well as <i>expend[s] funds...for support, care, education, health and welfare</i> as well as <i>conserve any funds not expended</i> .
102(34)	Void	Guardians now identify a standby guardian to serve in the event of their absence. No provision exists under the UGA.
102(38)	Terminology, uncertainty	Currently, a GAL is appointed by the court to represent the best interest of the adult. Under the UGA, GAL appears to be replaced by a Visitor but GAL is still retained. Hard to distinguish the difference between these two terms.
107(3)	Limitation, due process	UGA limits jury trials <i>on the issue whether a basis exists for appointment of a guardian or conservator</i> . Case law also states an IP is entitled to a jury trial on specific rights and freedoms limited by a guardianship proceeding.
121	Expansion	Conservators will be able to approve guardian fees. Currently, the court fulfills this role.
123/303/312/403	Uncertainty, due process	Petitioner notice doesn't specify content or timeframes.
124	Expansion, unprecedented	If guardian is acting contrary to the UGA, is misrepresenting or abusing and 3 rd party has actual knowledge, they must not acknowledge a guardian's authority.
125	Expansion, unprecedented	Guardians can delegate some but not all authority to others and be free of liability.
311	Expansion	While placement against ones will still requires the civil commitment process, guardians may now place in a facility that restricts flight by providing notice or authorized in a care plan. Adult may object to placement.
312	Unprecedented, due process	Emergency guardianships (limited duration, 60 days x2) to <i>prevent substantial harm to the adult</i> and when there is <i>a basis for appointment</i> . Ct may appoint without providing notice to adult if substantial harm will result before hearing can be conducted.
313	Void	No reporting requirements for guardians serving conservator functions.
414	Expansion	Under the UGA, a conservator may <i>make, modify, amend, or revoke</i> the will of the adult. Conservators are no longer required to receive court approval for real estate transactions except concerning the adult's primary dwelling.