

## Resolution Urging Alternatives to Guardianship

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3 **WHEREAS** taking away the rights of a person “in order to protect that person” is not necessarily  
4 justice and almost always undermines the person’s rights under the United States Constitution;  
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6 **WHEREAS** for a small fee, a guardianship can be established (possibly based on hearsay) that  
7 may nullify any or all Constitutional rights of an alleged Incapacitated Person (“IP”) without  
8 notice to the IP’s family, partner or companions. (The IP should receive notice (RCW 11.88.030) in  
9 no less than 10-point font, but this is sometimes over looked. There is no provision to ask the AIP  
10 if he/she needs help retaining counsel or even getting to court);  
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12 **WHEREAS** over 8000 guardianship cases are initiated in Washington every year, a 27% increase  
13 over 2000;  
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15 **WHEREAS** a guardianship can empower a total stranger to make some or all decisions for an IP  
16 - e.g., where they live, whom they see, how they live, and how their money is spent - regardless  
17 of any pre-existing Durable Power-of-Attorney, Advance Directive, trust or trust fund, pension,  
18 or designated bank accounts or CDs set up for the IP’s future wellbeing or heirs, even if the IP is  
19 still physically able to clearly communicate his/her wishes;  
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21 **WHEREAS** being made a ward of the court under guardianship is costly for the state and for the  
22 IP, and often unnecessary and humiliating for those who could function with minor assistance or  
23 no assistance at all;  
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25 **WHEREAS** even a person accused of a crime has a right to a jury trial before having his/her  
26 rights removed, but an alleged Incapacitated Person is accorded no semblance of such a right  
27 when being forced into a guardianship;  
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29 **WHEREAS** the Constitution guarantees the right to vote and the unalienable rights of Liberty  
30 and the Pursuit of Happiness to all in the way of their own choosing, but these rights are often  
31 removed under guardianship;  
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33 **WHEREAS** removal of a person’s Constitutional rights should be a last resort, not the only  
34 option;  
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36 **WHEREAS** currently any elderly or disabled person under disputed care has no other choice but  
37 to become a ward of the court under guardianship;  
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39 **WHEREAS** established family caregivers may be forced to divert care-giving time to trying to  
40 learn legal issues to become a guardian, when a simple Power-of-Attorney would have sufficed;  
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42 **WHEREAS** a professional guardian can hire lawyers at the IPs expense to fight caring family  
43 members who try to oppose any excessive fees, abuse by the guardian or the necessity of a  
44 guardianship at all; and

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46 **WHEREAS** RCW 11.92.190 (prohibiting detention of persons in residential placement facilities  
47 against their will), and other rights and protections available to persons not under guardianship,  
48 are often violated under guardianship;

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50 **THEREFORE BE IT RESOLVED** that we urge our Legislators to create alternatives to  
51 guardianship, such as: a court-issued Power-of-Attorney for relative/care-givers, Supported  
52 Decision-Making programs which are independent from the guardianship system, authorized  
53 bill payers, and limited interference protection for the disabled and aged;

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55 **THEREFORE BE IT FURTHER RESOLVED** that guardianship and other options that remove  
56 the Constitutional rights of an individual because of disability or age be considered only as a last  
57 resort, after other reasonable options have been tried and failed, rather than the first or only  
58 option, or the norm; and

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60 **THEREFORE BE IT FINALLY RESOLVED** that this resolution be communicated to the County  
61 Democratic Committees and the Washington State Democratic Convention, and to our State  
62 Legislators and the Governor's office.

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65 Submitted by the 32<sup>nd</sup> Legislative District Democrats and the King County Democrats.

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67 The Platform Committee recommended that this resolution be passed at their May 20, 2018  
68 meeting.

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70 The 2018 Washington State Democratic Convention passed this resolution on June 16, 2018.