

# Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

---

Article II: Guardianship of Minor

By: Joanna Puryear



# Statutory History

---

- Replaced former RCW 26.10
- Effective January 1, 2021
- Primarily intended to protect the liberty and autonomy of minors
- It was NOT written as a custody or family law statute
- Does not necessarily reflect the nuances of family law
- Case law prior to 2021 MUST be consulted with caution

# Types of Guardianships

---

- “Regular” Minor Guardianships
- Emergency Minor Guardianships
- Standby Minor Guardianships



# Emergency Minor Guardianship

---

- Basis: The appointment will likely prevent substantial harm to the minor's health, safety, or welfare, AND no other person can or will act to prevent the harm.
- Preponderance standard
- May be sought in a pending guardianship matter (preferred) or as a stand alone matter.
- No presumption that a permanent guardianship will be granted
- Not a determination that a basis for a guardianship exists

# Standby Minor Guardianship

---

- Must be commenced by a parent or by a personal nominated as standby guardian in a signed record.
- Not to be confused with a successor guardian or “standby guardian” as used in former RCW 11.88
- Essentially a proactive guardianship
- The process for establishing a Standby Guardian is the same as a “regular” minor guardianship
- Notice requirements are the same
- Parties entitled to notice have 60 days to object
- Standby Guardian does not immediately assume the duties and powers of a guardian



# Jurisdiction and Venue

---

- Actions are filed in the Superior Court
- Child must be domiciled or present in Washington State
- Venue is proper in the county:
  - Where the minor resides or is present at the commencement of the proceeding
  - In which another proceeding concerning the custody of the child or parental rights of the parents is pending
- The Uniform Child-Custody Jurisdiction and Enforcement Act (“UCCJEA”) & the Federal Parental Kidnapping Prevention Act (“PKPA”) apply.

# Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA)

---

- Basic Purpose:
  - Avoid jurisdictional competition
  - Promote cooperation among courts
  - Discourage use of the interstate system for continuing custody controversies
  - Deter child abductions
  - Avoid relitigation of custody decisions of other states
  - Facilitate enforcement of the decrees of other states.



# UCCJEA and Jurisdiction

---

- UCCJEA is not, strictly speaking, a statute of subject matter jurisdiction.
- A Washington court may assume jurisdiction over a custody determination only if:
  - WA is the child's home state
  - The child has significant connections to WA
  - There is an emergency
  - There is no other appropriate forum
  - Exclusive continuing jurisdiction



# UCCJEA Jurisdiction Relinquishment

---

- Non-Washington court exercising jurisdiction over a child:
  - Judge in WA must confer with non-Washington Judge
  - Commenced in a hearing setting
  - In Spokane County, the Family Law Department must schedule the hearing
  - Parties do not present oral argument
  - This hearing must occur prior to a WA court issuing a custody order