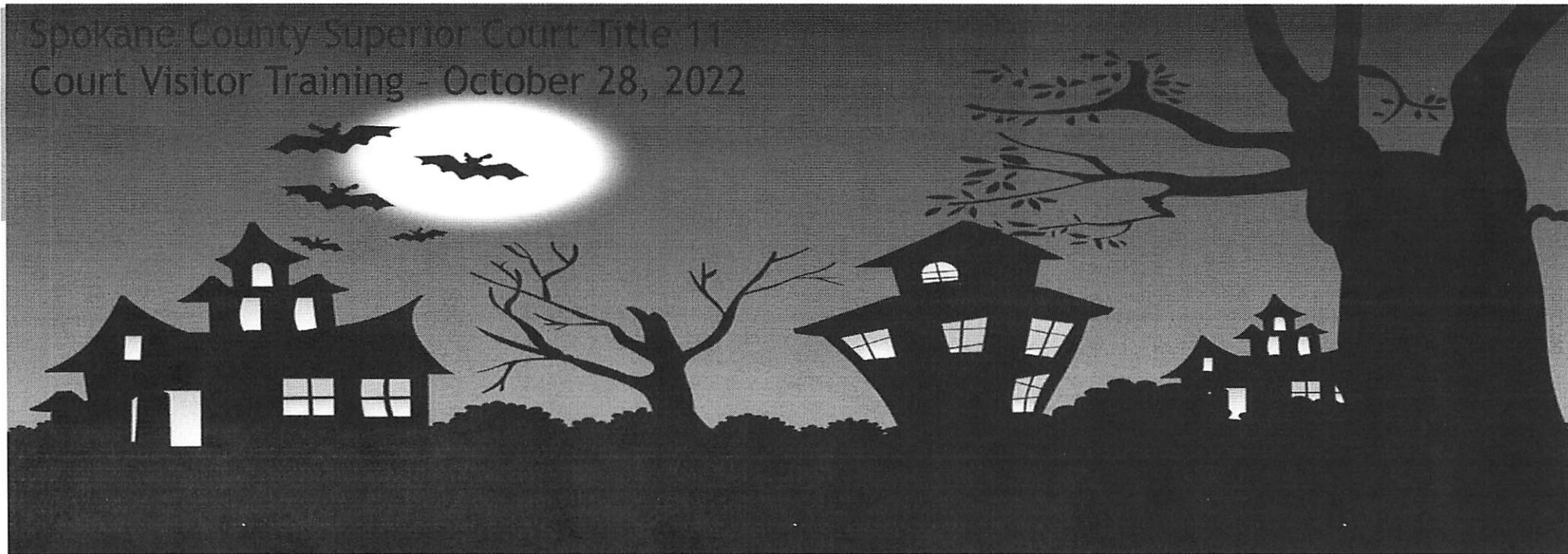




Court Visitor: New Statutory Procedures and Drafting Requirements

Spokane County Superior Court Title 11
Court Visitor Training - October 28, 2022



Superior Court of Washington, County of _____

In the Guardianship/Conservatorship of:

Case No.:

Respondent

Order Appointing Court Visitor - Adult
(ORAPCV)

Clerk's Action Required: 6, 7

Order Appointing Court Visitor

Findings

1. This court has jurisdiction over this matter.
2. The court visitor (visitor):
 - should be the person whose name next appears on the visitor registry; or
 - should **not** be the person whose name next appears on the registry because the court finds that extraordinary circumstances exist, as follows:
 - there is a need for particular expertise in the area of _____
 - other: _____
3. The filing fee should be waived because:
 - the petition alleges that the Respondent has total assets of a value of less than \$3,000;
 - payment of the filing fee would impose a hardship upon the Respondent; or
 - The filing fee should not be waived.

The court orders:

4. The filing fee:
 - is waived.
 - is not waived.
5. Payment of the visitor shall:
 - be at **public expense**, to be paid by _____ County at a rate not to exceed \$_____ per hour up to a maximum of \$_____ / _____ (hours) unless the visitor obtains prior approval from the court for a

different amount. If evidence is submitted showing that there was not financial hardship or that financial hardship no longer exists, the court shall be reimbursed the filing fee and all other fees and costs.

be at **private expense**. The visitor shall be paid at a rate of \$_____ per hour up to a maximum of \$_____ / _____ (hours) unless the visitor obtains prior approval from the court for a different amount.

not be allocated by this court because the visitor is a salaried employee of a public agency.

be determined at a future hearing.

6. The hearing on the guardianship, conservatorship, or other protective arrangement petition shall be held within 60 days of the date the petition was filed. The hearing:

shall be held on (date) _____ at (time) _____ in (court's location and room or department) _____.

shall be scheduled by the parties.

7. The court finds or knows that (*Visitor's name*) _____ has the required knowledge, training, or expertise to perform the duties required. The court appoints this person as visitor for the Respondent in this case. The visitor can be contacted in the following manner:

Address: _____

Telephone: _____

Email: _____

8. Professional Evaluation

The court orders the Respondent to submit to a professional evaluation by a physician licensed to practice under chapter 18.71 or 18.57 RCW, a psychologist licensed under chapter 18.83 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A RCW, selected by the court visitor who is qualified to evaluate the Respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest.

9. The Visitor's Duties

The visitor shall have the following duties in all types of cases:

A. Within the appropriate time limit of receiving the notice of appointment, file with the court and serve each party, either personally or by certified mail with return receipt, a statement including: their training relating to the duties as a visitor; their criminal history as defined in RCW 9.94A.030 for the period covering 10 years prior to the appointment; their hourly rate, if compensated; whether the visitor has had any contact with a party to the proceeding prior to their appointment, and whether they has an apparent conflict of interest;

B. Interview the Respondent in person (in an emergency petition use due diligence to interview in person) and explain, in a manner the Respondent is best able to understand: the substance of the petition, the nature, purpose, and effect of the

proceeding, the Respondent's rights at the hearing on the petition and, if relevant, the general powers and duties of a guardian/conservator;

To determine the Respondent's views about the appointment or protective arrangement sought by the petitioner, including views about a proposed guardian or conservator, the guardian or conservator's proposed powers and duties, and the scope and duration of the proposed order sought by the petitioner; and

To inform the Respondent that all costs and expenses of the proceeding, including the Respondent's attorney's fees, may be paid from the Respondent's assets.

- RCW 11.130 →
, 280(5)(b)
- C. To obtain information from a physician or other person known to have treated, advised, or assessed the Respondent's physical or mental condition (in an emergency petition, use due diligence);
 - D. If a guardianship or a protective arrangement related to the Respondent's dwelling is sought, visit the Respondent's current home (in an emergency petition, use due diligence) and any place the Respondent may live, if an appointment for guardian is made or a protective arrangement is ordered;
 - E. To interview the petitioner and the person whose appointment is sought as guardian and/or conservator;
 - F. If relevant to the order sought, review the financial records of the Respondent, if relevant to the Visitor's recommendation regarding the proposed conservator, guardian, or protective arrangement;
 - G. To investigate alternate arrangements made, or which might be created, by or on behalf of the Respondent;
 - H. Investigate the allegations in the petition and any other matter(s) relating to the petition the court directs;
 - I. To provide the court with a written report which shall include the following:
 - If relevant to the order sought, a summary of self-care and independent living tasks the Respondent cannot manage, can manage independently, and could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making;
 - A recommendation regarding the appropriateness of the guardianship, conservatorship, or protective arrangement sought, including whether a protective arrangement instead of a guardianship, conservatorship, or other less restrictive alternative for meeting the Respondent's needs is available;
 - A statement of the qualifications of the proposed guardian or conservator and whether the Respondent approves or disapproves of the proposed guardian or conservator;
 - If a guardianship or conservatorship is recommended, a statement as to whether it should be full or limited and what powers should be granted to the guardian or conservator if it is a limited appointment;
 - If relevant to the order sought, a statement whether the proposed residence meets the Respondent's needs and whether the Respondent has expressed any preferences in regards to their residence;
- 11.130.280
(6)

- A statement as to whether the Respondent declined a professional evaluation and, if so, what other information is available to determine the Respondent's needs and abilities without the professional evaluation;
 - A statement whether the Respondent is able to attend a hearing at the location where court proceedings are typically held;
 - A statement whether the Respondent is able to participate in a hearing, including identifying any technology or other form of support that would enhance the Respondent's ability to participate; and
 - If relevant to the order sought, the visitor should state the amount of the bond or other verified receipt needed under RCW 11.130.445 and 11.130.500.
 - If an Emergency Order is sought, a detailed summary of the alleged emergency and the substantial and irreparable harm to the individual's health, safety, welfare, property, or finances that is likely to be prevented by the appointment of an emergency guardian and/or conservator.
 - If an Emergency Order is sought, a statement as to whether the alleged emergency and the Respondent's alleged needs are likely to require an extension of 60 days;
 - If an Emergency Order is sought, the specific powers to be granted to the emergency conservator and/or guardian(s) and how the specific powers will address the alleged emergency and the Respondent's alleged need;
 - If an Emergency Order is sought, a recommendation regarding the appropriateness of an emergency guardianship and/or conservatorship, including whether a protective arrangement instead of a guardianship and/or conservatorship or other less restrictive alternative for meeting the Respondent's needs is available, and if an emergency guardianship and/or conservatorship is recommended;
- J. At least 15 days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the visitor shall file their report with the court and send a copy to the Respondent, Petitioner, and any other party entitled to notice under RCW 11.130.080. If the visitor needs additional time to finalize their report, then the visitor shall petition the court for a postponement of the hearing or, with the consent of all other parties, an extension or reduction of time for filing the report;
- [] This is an emergency proceeding. The visitor shall report to the court and send a copy to the Respondent, the Petitioner, and any notice party 7 days prior to the hearing on the *Emergency Petition*.
- K. The visitor's report shall be confidential. The sealed report must be filed under a Sealed Confidential Reports cover sheet. The sealed visitor report may not be placed in the court file or used as an attachment or exhibit to any other document except under seal.
- L. To advise the court of the need for appointment of counsel for the Respondent as soon as practical after the meeting described in **section B of this order** unless (i) counsel has appeared, (ii) the Respondent affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the

Respondent was unable to communicate at all on the subject, and the visitor is satisfied that the Respondent does not affirmatively desire to be represented by counsel.

10. Visitor's Authority and Access to Information

- A. Upon request of the visitor, all providers that are covered entities under the Health Insurance Portability and Accountability Act (HIPAA) and their business associates shall release to the visitor a professional evaluation required by RCW 11.130.290, .390, .615.
- B. Upon the visitor's request, financial institutions holding accounts in the name of the Respondent, or in the name of the Respondent and any other individual, shall provide the visitor with all records and financial information regarding those accounts. By this order, copies of financial information regarding the Respondent shall be released to the visitor.
- C. The visitor shall have access to the Adult Protective Service (APS) file and social report if any exists, provided that APS shall not be required to release the identities of persons making reports under RCW 74.34 et.seq., and shall have the right to reserve other privileged or confidential information as it deems appropriate to protect the Respondent. Any APS records released to the visitor are provided for the purpose of assisting the visitor in his/her investigation and report to the court. The records released to the visitor shall be used in the chapter 11.130 RCW proceedings and shall not be further disseminated without a court order and prior notice to the Attorney General's Office.

11. Visitor's Duty to Keep Information Confidential

The visitor shall maintain any information as confidential and shall not disclose said information except in oral or written reports to the court, the parties, and their counsel, except as authorized under RCW 74.34.095, GR 15, GR 22, GR 31, and GALR 2.

12. The court also orders: _____

Dated _____

Judge/Court Commissioner

Presented by:

Signature of Party/Lawyer Printed Name WSBA No.



Court visitor Duties: Guardianship (.280) v Conservatorship (.380)

<p>RCW 11.130.280</p> <p>(1) On receipt of a petition under RCW 11.130.270 for appointment of a guardian for an adult, the court shall appoint a court visitor. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.</p> <p>(2) The court, in the order appointing a court visitor, shall specify the hourly rate the court visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval. The fee shall be charged to the person subject to a guardianship or conservatorship proceeding 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 the court may charge such fee to the petitioner, the person subject to a guardianship or conservatorship proceeding, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the court visitor 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 agency.</p> <p>(3)(a) The court visitor appointed under subsection (1) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under RCW 11.130.080 with a statement including: His or her training relating to the duties as a court visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the court visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the court visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the court visitor should not be removed for one of the following three reasons:</p> <p>(i) Lack of expertise necessary for the proceeding;</p>	<p>RCW 11.130.380 (1) [relates to minor conservatorship]</p> <p>(2) If the respondent in a proceeding to appoint a conservator is an adult, the court shall appoint a court visitor. The duties and reporting requirements of the court visitor are limited to the relief requested in the petition. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.</p> <p>(3)[same as .280]</p> <p>(4)(a)[Same as .280(3)(a)]</p>
---	--

Court visitor Duties: Guardianship (.280) v Conservatorship (.380)

<p>(ii) An hourly rate higher than what is reasonable for the particular proceeding; or (iii) A conflict of interest.</p> <p>(b) Notice of the hearing shall be provided to the court visitor and all parties. If, after a hearing, the court enters an order replacing the court visitor, findings shall be included, expressly stating the reasons for the removal. If the court visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.</p> <p>(4) A court visitor appointed under subsection (1) of this section shall interview the respondent in person and, in a manner the respondent is best able to understand:</p> <p>(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the general powers and duties of a guardian;</p> <p>(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed guardian, the guardian's proposed powers and duties, and the scope and duration of the proposed guardianship; and</p> <p>(c) Inform the respondent that all costs and expenses of the proceeding, including the respondent's attorney's fees, may be paid from the respondent's assets.</p> <p><u>(5) The court visitor appointed under subsection (1) of this section shall:</u></p> <p>(a) Interview the petitioner and proposed guardian, if any;</p> <p>(b) Visit the respondent's present dwelling and any dwelling is reasonably believed the respondent will live if the appointment is made;</p> <p>(c) Obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition; and</p> <p>(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.</p>	<p>(b) Notice of the hearing shall be provided to the court visitor and all parties.....[same as .280(3)(b)]</p> <p>(5) [same as .280(4)]</p> <p>(a) [same as .280(4)(a)]</p> <p>(b) [same as .280(4)(b)]; and</p> <p>(c) [same as .280(4)(c)]</p> <p><u>(6) A court visitor appointed under subsection (2) of this section for an adult shall:</u></p> <p>(a) Interview the petitioner and proposed conservator, if any;</p> <p>(b) Review financial records of the respondent, if relevant to the court visitor's recommendation under subsection (7)(b) of this section; [7b does not make sense here]</p> <p>(c) Investigate whether the respondent's needs could be met by a protective arrangement instead of conservatorship or other less restrictive alternative and, if so, identify the arrangement or other less restrictive alternative; and</p> <p>(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.</p>
---	--

Court visitor Duties: Guardianship (.280) v Conservatorship (.380)

<p>(6) A court visitor appointed under subsection (1) of this section shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under RCW 11.130.080 at least fifteen days prior to the hearing on the petition filed under RCW 11.130.270, which must include:</p> <p>(a) A summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making, and cannot manage;</p> <p>(b) A recommendation regarding the appropriateness of guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available and:</p> <p>(i) If a guardianship is recommended, whether it should be full or limited; and</p> <p>(ii) If a limited guardianship is recommended, the powers to be granted to the guardian;</p> <p>(c) A statement of the qualifications of the proposed guardian and whether the respondent approves or disapproves of the proposed guardian;</p> <p>(d) A statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to residence;</p> <p>(e) A statement whether the respondent declined a professional evaluation under RCW 11.130.290 and what other information is available to determine the respondent's needs and abilities without the professional evaluation;</p>	<p>(7) ...[same as .280(6)]</p> <p>(a) A recommendation:</p> <p>(i) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;</p> <p>(ii) If a conservatorship is recommended, whether it should be full or limited;</p> <p>(iii) If a limited conservatorship is recommended, the powers to be granted to the conservator, and the property that should be placed under the conservator's control; and</p> <p>(iv) If a conservatorship is recommended, the amount of the bond or other verified receipt needed under RCW 11.130.445 and 11.130.500;</p> <p>(b) A statement of the qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;</p> <p>(c) A statement whether the respondent declined a professional evaluation under RCW 11.130.390 and what other information is available to determine the respondent's needs and abilities without the professional evaluation;</p>
---	---

Court visitor Duties: Guardianship (.280) v Conservatorship (.380)

<p>(f) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;</p> <p>(g) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and</p> <p>(h) Any other matter the court directs.</p> <p>(7) The appointment of a court visitor has no effect on the determination of the adult respondent's legal capacity and does not overcome the presumption of legal capacity or full legal and civil rights of the adult respondent.</p> <p><u>11.130.290(3) Professional Evaluation - requirement for individual conducting evaluation to provide it to the Court visitor "within 30 days of examination"</u></p>	<p>(d)[same as .280(6)(b)(f);</p> <p>(e) ...[same as .280(6)(b)(g)]; and</p> <p>(f) ...[same as .280(6)(b)(h)]</p> <p>(8) ...[same as .280(7)]</p> <p><u>11.130.390(3) Professional Evaluation – no 30 day requirement.... instead individual conducting evaluation shall "promptly provide" to Court visitor</u></p> <p>11.130.390(5) A professional evaluation not required for property or financial affairs for a minor or an adult missing, detained, or unable to return to the United States.</p> <p>11.130.360(5) an adult who resides in a long term care facility, resides in another care setting, or is the subject of involuntary commitment order is not considered missing or detained.</p>
--	---

If a **guardianship** is being requested, RCW 11.130.280(6) provides that the CV's report must include the following:

1. A summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports; those the respondent could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making; and those the respondent cannot manage;
2. A recommendation regarding the appropriateness of guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available, and whether the guardianship should be full or limited;
 - a. If a limited guardianship is recommended, the powers that should be granted to the guardian should be included in the report.
3. A statement of qualifications of the proposed guardian and whether the respondent approves or disapproves of the proposed guardian;
4. A statement as to whether the respondent's housing meets the respondent's needs and whether the respondent has expressed a preference as to residence;
5. A statement as to whether the respondent declined a professional evaluation under RCW 11.130.290 and what other information is available to determine the respondent's needs and abilities without the professional evaluation;
6. A statement as to whether the respondent is able to attend a hearing at the location where the court usually holds hearings;
7. A statement as to whether the respondent can participate in a hearing, including whether any technology or other form of support would help respondent participate; and
8. Anything else the court directs the CV to include.

If a **conservatorship** is being requested, RCW 11.130.380(7) provides that the CV's report must include the following:

1. A recommendation regarding the appropriateness of conservatorship, including whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available, and whether the conservatorship should be full or limited;
 - a. If a limited conservatorship is recommended, the powers that should be granted to the conservator, and the property that should be placed under the conservator's control, should be included in the report.

2. The amount of the bond or other verified receipt needed under RCW 11.130.445 and 11.130.500;
3. A statement of qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;
4. A statement as to whether the respondent declined a professional evaluation under RCW 11.130.390 and what other information is available to determine the respondent's needs and abilities without the professional evaluation;
5. A statement as to whether the respondent is able to attend a hearing at the location where the court usually holds hearings;
6. A statement as to whether the respondent can participate in a hearing, including whether any technology or other form of support would help respondent participate; and
7. Anything else the court directs the CV to include.

The CV report must be served and filed no later than 15 days before the hearing on the underlying petition, unless a request is made to “shorten” time or an extension is granted. RCW 11.130.280(6) and RCW 11.130.380(7). The professional evaluator's report may be filed and served at the same time as the CV's report. The CV must be familiar with GR 15, 22, and 31 regarding what information may be included in a record filed for public viewing and what documents must be filed under seal.

Either the respondent or the CV may ask the court to send the parties to mediation whenever the respondent could benefit from mediation. RCW 11.130.035(4). Alternatively, the court may set a trial date. The respondent has the right to trial on the issue of whether a basis exists for the appointment of a guardian or conservator and on the rights to be retained or restricted if a guardian or conservator is appointed. RCW 11.130.035(3).

In uncontested cases, after the CV report is served and filed, there is a hearing before a judge or court commissioner who may then enter an order on the guardianship or conservatorship petition. That court may adopt the recommendations of the CV, but it is not required to do so. The respondent is required to attend the hearing and the court must make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or to allow the respondent to attend the hearing using real-time audio-visual technology. The hearing may proceed if there is clear and convincing evidence that the respondent has refused to attend or there is no practical way for the respondent to attend, even with supportive services and technological assistance. *See* RCW 11.130.295 or RCW 11.130.400. The CV will need to address the respondent's attendance at the hearing in the CV's report.

The respondent is entitled to legal representation. If the respondent cannot afford an attorney, one will be appointed for him or her at county expense.

C. TIMELINE SUMMARY FOR COURT VISITORS

1. Within five days after notice of appointment, the CV shall serve on the parties and file with the court a Statement of Qualifications. RCW 11.130.280(3)(a) and RCW 11.130.380(4)(a).
2. Within three days of the later of service or filing of the CV statement, any party may set a hearing and file and serve a motion to show cause why the CV should not be removed. *Id.*
3. The CV should meet and consult with the respondent as soon as practicable after being appointed. RCW 11.130.280(4) and RCW 11.130.380(5).
4. As soon as possible after appointment, the CV should select a professional to prepare the required professional evaluation, meet with the proposed guardian or conservator, interview and consult others, as needed, and investigate alternatives to guardianship/conservatorship. RCW 11.130.290 and RCW 11.130.390.
5. At least 15 days before the hearing on the underlying petition, the CV must file his or her report and provide a copy to the respondent, the petitioner, and any interested party listed in RCW 11.130.280 for guardianship and RCW 11.130.380 for conservatorship. *Exception:* The foregoing applies unless an extension or reduction of time has been granted by the court for good cause.
6. All petitions for guardianship and conservatorship must be heard within 60 days unless an extension is provided by the court for good cause shown. RCW 11.130.275 and RCW 11.130.370.

GALR 4
AUTHORITY OF GUARDIAN AD LITEM

As an officer of the court, a guardian ad litem has only such authority conferred by the order of appointment. Consistent with the roles and responsibilities set forth in rules 2 and 3, and the grievance procedures set forth in rules 5 and 6, a guardian ad litem shall have the following authority:

(a) Access to party. Unless circumstances warrant otherwise, a guardian ad litem shall have access to the person(s) for whom a guardian ad litem is appointed and to all information relevant to the issues for which a guardian ad litem was appointed. The access of a guardian ad litem to the child or alleged incapacitated person and all relevant information shall not be unduly restricted by any person or agency. When the guardian ad litem seeks contact with a party who is represented by an attorney, the guardian ad litem shall notify the attorney in advance of such contact. The guardian ad litem's contact with the represented party shall be as permitted by the party's attorney, unless otherwise ordered by the court.

(b) Timely receipt of case documents. Until discharged by court order a guardian ad litem shall be timely furnished copies of all relevant pleadings, documents, and reports by the party which served or submitted them.

(c) Timely notification. A guardian ad litem shall be timely notified of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case by the person or agency scheduling the proceeding.

(d) Notice of proposed agreements. A guardian ad litem shall be given notice of, and an opportunity to indicate his or her agreement or objection to any proposed agreed order of the parties governing issues substantially related to the duties of a guardian ad litem.

(e) Participate in all proceedings. Consistent with rule 2(1), a guardian ad litem shall participate in court hearings through submission of written and supplemental oral reports and as otherwise authorized by statute and court rule.

(f) Access to records. Except as limited by law or unless good cause is shown to the court, upon receiving a copy of the order appointing a guardian ad litem, any person or agency, including but not limited to any hospital, school, child care provider, organization, department of social and health services, doctor, health care provider, mental health provider, chemical health program, psychologist, psychiatrist, or law enforcement agency, shall permit a guardian ad litem to inspect and copy any and all records and interview personnel relating to the proceeding for which a guardian ad litem is appointed.

(g) Access to court files. Within the scope of appointment, a guardian ad litem shall have access to all superior court and all juvenile court files. Access to sealed or confidential files shall be by separate order. A guardian ad litem's report shall inform the court and parties if the report contains information from sealed or confidential files. The clerk of court shall provide certified copies of the order of appointment to a guardian ad litem upon request and without charge.

(h) Additional rights and powers under RCW 13.34 or RCW 26.26. In every case in which a guardian ad litem is a party to the case pursuant to RCW 13.34 or RCW 26.26, a guardian ad litem shall have the rights and powers set forth below. These rights and powers are subject to all applicable statutes and court rules.

(1) *File documents and respond to discovery.* A guardian ad litem shall have the right to file pleadings, motions, notices memoranda, briefs, and other documents, and may, subject to the trial court's discretion engage in and respond to discovery.

(2) *Note motions and request hearings.* A guardian ad litem shall have the right to note motions and request hearings before the court as appropriate to the best interests of the person(s) for whom a guardian ad litem was appointed.

(3) *Introduce exhibits, examine witnesses.* A guardian ad litem shall have the right, subject to the trial court's discretion, to introduce exhibits, subpoena witnesses, and conduct direct and cross-examination of witnesses.

(4) *Oral argument and submission of reports.* A guardian ad litem shall have the right to fully participate in the proceedings through submission of written reports, and, may with the consent of the trial court present oral argument.

(i) Additional rights and powers in other cases. For good cause shown, a guardian ad litem may petition the court for additional authority as set forth in rule 2(j).

(j) Additional training requirements. The Administrative Office of the Courts shall amend the current guardian ad litem mandatory training so that Titles 13 and 26 RCW guardians ad litem are prepared to carry out the additional requirements of this rule.

[Adopted effective November 27, 2001.]

GR 15
DESTRUCTION, SEALING, AND REDACTION OF COURT RECORDS

(a) Purpose and Scope of the Rule. This rule sets forth a uniform procedure for the destruction, sealing, and redaction of court records. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record, or the method of storage of the court record.

(b) Definitions.

(1) “Court file” means the pleadings, orders, and other papers filed with the clerk of the court under a single or consolidated cause number(s).

(2) “Court record” is defined in GR 31(c)(4).

(3) *Destroy*. To destroy means to obliterate a court record or file in such a way as to make it permanently irretrievable. A motion or order to expunge shall be treated as a motion or order to destroy.

(4) *Seal*. To seal means to protect from examination by the public and unauthorized court personnel. A motion or order to delete, purge, remove, excise, erase, or redact shall be treated as a motion or order to seal.

(5) *Redact*. To redact means to protect from examination by the public and unauthorized court personnel a portion or portions of a specified court record.

(6) Restricted Personal Identifiers are defined in GR 22(b)(6).

(7) *Strike*. A motion or order to strike is not a motion or order to seal or destroy.

(8) *Vacate*. To vacate means to nullify or cancel.

(c) Sealing or Redacting Court Records.

(1) In a civil case, the court or any party may request a hearing to seal or redact the court records. In a criminal case or juvenile proceeding, the court, any party, or any interested person may request a hearing to seal or redact the court records. Reasonable notice of a hearing to seal must be given to all parties in the case. In a criminal case, reasonable notice of a hearing to seal or redact must also be given to the victim, if ascertainable, and the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile. No such notice is required for motions to seal documents entered pursuant to CrR 3.1(f) or CrRLJ 3.1(f).

(2) After the hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record. Agreement of the parties alone does not constitute a sufficient basis for the sealing or redaction of court records. Sufficient privacy or safety concerns that may be weighed against the public interest include findings that:

(A) The sealing or redaction is permitted by statute; or

(B) The sealing or redaction furthers an order entered under CR 12(f) or a protective order entered under CR 26(c); or

(C) A conviction has been vacated; or

(D) The sealing or redaction furthers an order entered pursuant to RCW 4.24.611; or

(E) The redaction includes only restricted personal identifiers contained in the court record;
or

(F) Another identified compelling circumstance exists that requires the sealing or redaction.

(3) A court record shall not be sealed under this section when redaction will adequately resolve the issues before the court pursuant to subsection (2) above.

(4) *Sealing of Entire Court File.* When the clerk receives a court order to seal the entire court file, the clerk shall seal the court file and secure it from public access. All court records filed thereafter shall also be sealed unless otherwise ordered. The existence of a court file sealed in its entirety, unless protected by statute, is available for viewing by the public on court indices. The information on the court indices is limited to the case number, names of the parties, the notation "case sealed," the case type and cause of action in civil cases and the cause of action or charge in criminal cases, except where the conviction in a criminal case has been vacated, section (d) shall apply. The order to seal and written findings supporting the order to seal shall also remain accessible to the public, unless protected by statute.

(5) *Sealing of Specified Court Records.* When the clerk receives a court order to seal specified court records the clerk shall:

(A) On the docket, preserve the docket code, document title, document or subdocument number and date of the original court records;

(B) Remove the specified court records, seal them, and return them to the file under seal or store separately. The clerk shall substitute a filler sheet for the removed sealed court record. If the court record ordered sealed exists in a microfilm, microfiche or other storage medium form other than paper, the clerk shall restrict access to the alternate storage medium so as to prevent unauthorized viewing of the sealed court record; and

(C) File the order to seal and the written findings supporting the order to seal. Both shall be accessible to the public.

(D) Before a court file is made available for examination, the clerk shall prevent access to the sealed court records.

(6) *Procedures for Redacted Court Records.* When a court record is redacted pursuant to a court order, the original court record shall be replaced in the public court file by the redacted copy. The redacted copy shall be provided by the moving party. The original unredacted court record shall be sealed following the procedures set forth in (c)(5).

(d) Procedures for Vacated Criminal Convictions. In cases where a criminal conviction has been vacated and an order to seal entered, the information in the public court indices shall be limited to the case number, case type with the notification "DV" if the case involved domestic violence, the adult or juvenile's name, and the notation "vacated."

(e) Grounds and Procedure for Requesting the Unsealing of Sealed Records.

(1) Sealed court records may be examined by the public only after the court records have been ordered unsealed pursuant to this section or after entry of a court order allowing access to a sealed court record.

(2) *Criminal Cases.* A sealed court record in a criminal case shall be ordered unsealed only

upon proof of compelling circumstances, unless otherwise provided by statute, and only upon motion and written notice to the persons entitled to notice under subsection (c)(1) of this rule except:

(A) If a new criminal charge is filed and the existence of the conviction contained in a sealed record is an element of the new offense, or would constitute a statutory sentencing enhancement, or provide the basis for an exceptional sentence, upon application of the prosecuting attorney the court shall nullify the sealing order in the prior sealed case(s).

(B) If a petition is filed alleging that a person is a sexually violent predator, upon application of the prosecuting attorney the court shall nullify the sealing order as to all prior criminal records of that individual.

(3) *Civil Cases.* A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24 or CR 26(j). If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by the Superior Court Rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful.

(4) *Juvenile Proceedings.* Inspection of a sealed juvenile court record is permitted only by order of the court upon motion made by the person who is the subject of the record, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(23). Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order, pursuant to RCW 13.50.050(16).

(f) Maintenance of Sealed Court Records. Sealed court records are subject to the provisions of RCW 36.23.065 and can be maintained in mediums other than paper.

(g) Use of Sealed Records on Appeal. A court record or any portion of it, sealed in the trial court shall be made available to the appellate court in the event of an appeal. Court records sealed in the trial court shall be sealed from public access in the appellate court subject to further order of the appellate court.

(h) Destruction of Court Records.

(1) The court shall not order the destruction of any court record unless expressly permitted by statute. The court shall enter written findings that cite the statutory authority for the destruction of the court record.

(2) In a civil case, the court or any party may request a hearing to destroy court records only if there is express statutory authority permitting the destruction of the court records. In a criminal case or juvenile proceeding, the court, any party, or any interested person may request a hearing to destroy the court records only if there is express statutory authority permitting the destruction of the court records. Reasonable notice of the hearing to destroy must be given to all parties in the case. In a criminal case, reasonable notice of the hearing must also be given to the victim, if ascertainable, and the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile.

(3) When the clerk receives a court order to destroy the entire court file the clerk shall:

(A) Remove all references to the court records from any applicable information systems maintained for or by the clerk except for accounting records, the order to destroy, and the written

findings. The order to destroy and the supporting written findings shall be filed and available for viewing by the public.

(B) The accounting records shall be sealed.

(1) When the clerk receives a court order to destroy specified court records the clerk shall;

(A) On the automated docket, destroy any docket code information except any document or sub-document number previously assigned to the court record destroyed, and enter "Order Destroyed" for the docket entry;

(B) Destroy the appropriate court records, substituting, when applicable, a printed or other reference to the order to destroy, including the date, location, and document number of the order to destroy; and

(C) File the order to destroy and the written findings supporting the order to destroy. Both the order and the findings shall be publicly accessible.

(5) This subsection shall not prevent the routine destruction of court records pursuant to applicable preservation and retention schedules.

(i) Trial Exhibits. Notwithstanding any other provision of this rule, trial exhibits may be destroyed or returned to the parties if all parties so stipulate in writing and the court so orders.

(j) Effect on Other Statutes. Nothing in this rule is intended to restrict or to expand the authority of clerks under existing statutes, nor is anything in this rule intended to restrict or expand the authority of any public auditor, or the Commission on Judicial Conduct, in the exercise of duties conferred by statute.

[Adopted effective September 22, 1989; Amended effective September 1, 1995; June 4, 1997; June 16, 1998; September 1, 2000; October 1, 2002; July 1, 2006; April 28, 2015.]

GALR 2
GENERAL RESPONSIBILITIES OF GUARDIAN AD LITEM

Consistent with the responsibilities set forth in Titles 11, 13, and 26 of the Revised Code of Washington and other applicable statutes and rules of court, in every case in which a guardian ad litem is appointed, the guardian ad litem shall perform the responsibilities set forth below. For purposes of these rules, a guardian ad litem is any person who is appointed by the court to represent the best interest of the child(ren), an adjudicated incapacitated person, or an alleged incapacitated person or to assist the court in determining the best interest of the child(ren), an adjudicated incapacitated person, or an alleged incapacitated person, regardless of that person's title, except a person appointed pursuant to rule 6.

(a) Represent best interests. A guardian ad litem shall represent the best interests of the person for whom he or she is appointed. Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents. The guardian ad litem shall not advocate on behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney.

(b) Maintain independence. A guardian ad litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.

(c) Professional conduct. A guardian ad litem shall maintain the ethical principles of the rules of conduct set forth in these rules and is subject to discipline under local rules established pursuant to rule 7 for violation.

(d) Remain qualified for the registry. Unless excepted by statute or court rule, a guardian ad litem shall satisfy all training requirements and continuing education requirements developed for Titles 13 and 26 RCW guardians ad litem by the administrator of the courts and for Title 11 RCW guardians ad litem as required by statute and maintain qualifications to serve as guardian ad litem in every county where the guardian ad litem is listed on the registry for that county and in which the guardian ad litem serves and shall promptly advise each such court of any grounds for disqualification or unavailability to serve.

(e) Avoid conflicts of interests. A guardian ad litem shall avoid any actual or apparent conflict of interest or impropriety in the performance of guardian ad litem responsibilities. A guardian ad litem shall avoid self-dealing or association from which a guardian ad litem might directly or indirectly benefit, other than for compensation as guardian ad litem. A guardian ad litem shall take action immediately to resolve any potential conflict or impropriety. A guardian ad litem shall advise the court and the parties of action taken, resign from the matter, or seek court direction as may be necessary to resolve the conflict or impropriety. A guardian ad litem shall not accept or maintain appointment if the performance of the duties of guardian ad litem may be materially limited by the guardian ad litem's responsibilities to another client or a third person, or by the guardian ad litem's own interests.

(f) Treat parties with respect. A guardian ad litem is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith.

(g) Become informed about case. A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. A guardian ad litem shall examine material information and sources of information, taking into account the positions of the parties.

(h) Make requests for evaluations to court. A guardian ad litem shall not require any evaluations or tests of the parties except as authorized by statute or court order issued following notice and opportunity to be heard.

(i) Timely inform the court of relevant information. A guardian ad litem shall file a written report with the court and the parties as required by law or court order or in any event not later than 10 days prior to a hearing for which a report is required. The report shall be accompanied by a written list of documents considered or called to the attention of the guardian ad litem and persons interviewed during the course of the investigation.

(j) Limit duties to those ordered by court. A guardian ad litem shall comply with the court's instructions as set out in the order appointing a guardian ad litem, and shall not provide or require services beyond the scope of the court's instruction unless by motion and on adequate notice to the parties, a guardian ad litem obtains additional instruction, clarification or expansion of the scope of such appointment.

(k) Inform individuals about role in case. A guardian ad litem shall identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and inform individuals contacted in a particular case about the role of a guardian ad litem in the case at the earliest practicable time. A guardian ad litem shall advise information sources that the documents and information obtained may become part of court proceedings.

(l) Appear at hearings. The guardian ad litem shall be given notice of all hearings and proceedings. A guardian ad litem shall appear at any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed. In Title 11 RCW proceedings, the guardian ad litem shall appear at all hearings unless excused by court order.

(m) Ex parte communication. A guardian ad litem shall not have ex parte communications concerning the case with the judge(s) and commissioner(s) involved in the matter except as permitted by court rule or by statute.

(n) Maintain privacy of parties. As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of identifiers or addresses where there are allegations of domestic violence or risk to a party's, person's, or child(ren)'s safety. The guardian ad litem may recommend that the court seal the report or a portion of the report of the guardian ad litem to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure or discovery that addresses the need to challenge the truth of the information received from the confidential source.

(o) Perform duties in timely manner. A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.

(p) Maintain documentation. A guardian ad litem shall maintain documentation to substantiate recommendations and conclusions and shall keep records of actions taken by the guardian ad litem. Except as prohibited or protected by law, and consistent with rule 2(n), this information shall be made available for review on written request of a party or the court on request. Costs may be imposed for such requests.

(q) Keep records of time and expenses. A guardian ad litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment. The court shall make provisions for fees and expenses pursuant to statute in the Order Appointing Guardian ad Litem or in any subsequent order.

[Adopted effective November 27, 2001.]

GR 31
ACCESS TO COURT RECORDS

(a) Policy and Purpose. It is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by Article I, Section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.

(b) Scope. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule. Court records are further governed by GR 22.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a court record.

(2) "Administrative record" means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board, or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.

(3) "Bulk distribution" means distribution of all, or a significant subset, of the information in court records, as is and without modification.

(4) "Court record" includes, but is not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

(5) "Criminal justice agencies" are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.

(6) "Dissemination contract" means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.

(7) "Judicial Information System (JIS) Committee" is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.

(8) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(9) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(10) "Public purpose agency" means governmental agencies included in the definition of "agency" in RCW 42.17.020 and other non-profit organizations whose principal function is to provide services to the public.

(d) Access.

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(3) A fee may not be charged to view court records at the courthouse.

(e) Personal Identifiers Omitted or Redacted from Court Records.

(1) Except as otherwise provided in GR 22, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) Social Security Numbers. If the Social Security Number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) Driver's License Numbers.

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

Comment

This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

(f) Distribution of Court Records Not Publicly Accessible.

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which

access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f) (1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requester to specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees, and the Commission on Judicial Conduct may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.

(B) Agencies requesting access under this section of the rule shall identify the court records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: (i) specify the data to which access is granted, (ii) specify the uses which the agency will make of the data, and (iii) include the agency's agreement that its employees will access the data only for the uses specified.

(g) Bulk Distribution of Court Records.

(1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.

(2) Dissemination contracts shall not include the dissemination or distribution of juvenile court records.

(3) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(4) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

(h) Appeals. Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

(i) Notice. The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

(j) Access to Juror Information. Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

(k) Access to Master Jury Source List. Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

[Adopted effective October 26, 2004; Amended effective January 3, 2006.]

GR 22
ACCESS TO FAMILY LAW, GUARDIANSHIP, AND THERAPEUTIC COURT
RECORDS

(a) Purpose and Scope of this Rule. This rule governs access to family law, guardianship, and therapeutic court records, whether the records are maintained in paper or electronic form. The policy of the courts is to facilitate public access to court records, provided that such access will not present an unreasonable invasion of personal privacy, will not permit access to records or information defined by law or court rule as confidential, sealed, exempted from disclosure, or otherwise restricted from public access, and will not be unduly burdensome to the ongoing business of the courts.

(b) Definition and Construction of Terms.

(1) "Court record" is defined in GR 31 (c)(4).

(2) "Family law case or guardianship case" means any case filed under Chapters 11.88, 11.92, 11.130, 26.09, 26.10, 26.12, 26.18, 26.21, 26.23, 26.26, 26.27, 26.50, 26.52, 73.36 and 74.34 RCW.

(3) "Personal Health Care Record" means any record or correspondence that contains health information that: (1) relates to the past, present, or future physical or mental health condition of an individual including past, present, or future payments for health care; or (2) involves genetic parentage testing.

(4) "Personal Privacy" is unreasonably invaded only if disclosure of information about the person or the family (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.

(5) "Public access" means unrestricted access to view or copy a requested court record.

(6) "Restricted personal identifiers" means a party's social security number, a party's driver's license number, a party's telephone number, financial account numbers, social security number of a minor child and date of birth of a minor child.

Comment

A party is not required to provide a residence address. Petitioners or counsel to a family law case will provide a service or contact address in accordance with CR 4.1 that will be publicly available and all parties and counsel should provide a contact address if otherwise required. Pattern forms shall be modified, as necessary, to reflect the intent of this rule.

(7) "Retirement plan order" means a supplemental order entered for the sole purpose of implementing a property division that is already set forth in a separate order or decree in a family law case. A retirement plan order may not grant substantive relief other than what is set forth in a separate order. Examples of retirement plan orders are orders that implement a division of retirement, pension, insurance, military, or similar benefits as already defined in a decree of dissolution of marriage.

(8) "Sealed financial source documents" means income tax returns, W-2s and schedules, wage stubs, credit card statements, financial institution statements, checks or the equivalent, check registers, loan application documents, and retirement plan orders, as well as other financial information sealed by court order.

(9) “Therapeutic court cases” means any case in which a party is receiving treatment pursuant to a therapeutic court program under chapter 2.30 RCW, other than proceedings under chapter 13.34 RCW.

(c) Access to Family Law, Guardianship, and Therapeutic Court Records.

(1) *General Policy.* Except as provided in RCW 26.26A.500 and subsections (c)(2) and (c)(3) below, all court records shall be open to the public for inspection and copying upon request. The Clerk of the court may assess fees, as may be authorized by law, for the production of such records.

(2) *Restricted Access.* The Confidential Information Form, Sealed Financial Source Documents, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Sealed Personal Health Care Record, Retirement Plan Order, Confidential Reports as defined in (e)(2)(B), copies of any unredacted Judicial Information System (JIS) database information considered by the court for parenting plan approval as set forth in (f) of this rule, any Personal Information Sheet necessary for JIS purposes, and evaluations and reports pursuant to chapter 10.77 RCW, therapeutic court risk/needs assessments, treatment evaluation and treatment compliance forms used in therapeutic court cases or otherwise ordered by a court, shall only be accessible as provided in sections (h) and (i) herein.

(3) *Excluded Records.* This section (c) does not apply to court records that are sealed as provided in GR 15, or to which access is otherwise restricted by law.

(d) Restricted Personal Identifiers Not Required—Except. Parties to a family law case or the respondent, individual subject to guardianship, conservatorship or other protective arrangement, or other party in a guardianship case or defendants in a therapeutic court or those ordered to do treatment by a therapeutic court shall not be required to provide restricted personal identifiers in any document filed with the court or required to be provided upon filing a family law or guardianship case, except:

(1) “Sealed financial source documents” filed in accordance with (g)(1).

(2) The following forms: Confidential Information Form, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Vital Statistics Form, Law Enforcement Information Form, Foreign Protection Order Information Form, and any Personal Information Sheet necessary for JIS purposes.

(3) Court requested documents that contain restricted personal identifiers, which may be submitted by a party as financial source documents under the provisions of section (g) of this rule.

Comment

Court records not meeting the definition of “Sealed Financial Source Documents,” “Personal Health Care Records,” Retirement Plan Orders, Confidential Reports or court records that otherwise meet the definition but have not been submitted in accordance with (g)(1) are not automatically sealed. Section (3) provides authority for the court to seal court records containing restricted personal identifiers upon motion of a party, or on the court’s own motion during a hearing or trial.

(e) Filing of Reports in Family Law, Guardianship, and Therapeutic Court Cases—Cover Sheet.

(1) This section applies to documents that are intended as reports to the court in Family law, Guardianship, and therapeutic court cases including, but not limited to, the following:

(A) Parenting evaluations;

(B) Domestic Violence Assessment Reports created by Family Court Services or a qualified expert appointed by the court, or created for a therapeutic court purpose or otherwise ordered by a court;

(C) Risk Assessment Reports created by Family Court Services or a qualified expert, or created for a therapeutic court purpose or otherwise ordered by a court;

(D) Treatment evaluation and compliance reports required by a therapeutic court or otherwise ordered by a court;

(E) Mental health competency evaluations;

(F) CPS Summary Reports created by Family Court Services or supplied directly by Children's Protective Services;

(G) Sexual abuse evaluations; and

(H) Reports of a guardian ad litem or Court Appointed Special Advocate, visitor, or court visitor.

(2) Reports shall be filed as two separate documents, one public and one sealed.

(A) Public Document. The public portion of any report shall include a simple listing of:

(i) Materials or information reviewed;

(ii) Individuals contacted;

(iii) Tests conducted or reviewed; and

(iv) Conclusions and recommendations.

(B) Sealed Document. The sealed portion of the report shall be filed with a coversheet designated: "Sealed Confidential Report." The material filed with this coversheet shall include:

(i) Detailed descriptions of material or information gathered or reviewed;

(ii) Detailed descriptions of all statements reviewed or taken;

(iii) Detailed descriptions of tests conducted or reviewed; and

(iv) Any analysis to support the conclusions and recommendations.

(3) The sealed portion may not be placed in the court file or used as an attachment or exhibit to any other document except under seal.

(f) Information Obtained from JIS Databases with Regard to Approval of a Parenting Plan.

When a judicial officer proposes to consider information from a JIS database relevant to the placement of a child in a parenting plan, the judicial officer shall either orally disclose on the record or disclose the relevant information in written form to each party present at the hearing, and, on timely request, provide any party an opportunity to be heard regarding that information. The judicial officer has discretion not to disclose information that they do not propose to

consider. The judicial officer may restrict secondary dissemination of written unredacted JIS database information not available to the public.

(g) Sealing Financial Source Documents, Personal Health Care Records, and Sealed Confidential Reports in Family Law and Guardianship cases--Cover Sheet.

(1) Financial source documents, personal health care records, confidential reports as defined in (e)(2)(B) of this rule, and copies of unredacted JIS database records considered by the court for parenting plan approval as set forth in (f) of this rule, shall be submitted to the clerk under a cover sheet designated "SEALED FINANCIAL SOURCE DOCUMENTS," "SEALED PERSONAL HEALTH CARE RECORDS," "SEALED CONFIDENTIAL REPORT," or "JUDICIAL INFORMATION SYSTEM DATABASE RECORDS" for filing in the court record of family law or guardianship cases.

(2) All financial source documents, personal health care records, confidential reports, or JIS database records so submitted shall be automatically sealed by the clerk. The cover sheet or a copy thereof shall remain part of the public court file.

(3) The court may order that any financial source documents containing restricted personal identifiers, personal health care records, any report containing information described in (e)(2)(B), or copies of unredacted JIS database records considered by the court for parenting plan approval as described in (f) be sealed, if they have not previously automatically been sealed pursuant to this rule.

(4) These cover sheets may not be used for any documents except as provided in this rule. Sanctions may be imposed upon any party or attorney who violates this rule.

Comment

See comment to (d)(3) above.

(h) Access by Courts, Agencies, and Parties to Restricted Documents.

(1) Unless otherwise provided by statute or court order, the following persons shall have access to all records in family law, guardianship, or therapeutic court cases:

(A) Judges, commissioners, other court personnel, the Commission on Judicial Conduct, and the Certified Professional Guardianship and Conservatorship Board may access and use restricted court records only for the purpose of conducting official business of the court, Commission, or Board.

(B) Any state administrative agency of any state that administers programs under Title IV-A, IV-D, IV-E, or XIX of the federal Social Security Act.

(2) Except as otherwise provided by statute or court order, the following persons shall have access to all documents filed in a family law, guardianship, or therapeutic court case, except the Personal Information Sheet, Vital Statistics Form, Confidential Information Form, Domestic Violence Information Form, Law Enforcement Information Form, and Foreign Protection Order Form.

(A) Parties of record as to their case.

(B) Attorneys as to cases where they are attorneys of record.

(C) Court appointed Title 11 guardians ad litem, visitor, or court visitor as to cases where they are actively involved.

(i) Access to Court Records Restricted Under This Rule.

(1) The parties may stipulate in writing to allow public access to any court records otherwise restricted under section (c)(2) above.

(2) Any person may file a motion, supported by an affidavit showing good cause, for access to any court record otherwise restricted under section (c)(2) above, or to be granted access to such court records with specified information deleted. Written notice of the motion shall be provided to all parties in the manner required by the Superior Court Civil Rules. If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by the Superior Court Rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful, or if the motion requests access to redacted JIS database records.

(A) The court shall allow access to court records restricted under this rule, or relevant portions of court records restricted under this rule, if the court finds that the public interests in granting access or the personal interest of the person seeking access outweigh the privacy and safety interests of the parties or dependent children.

(B) Upon receipt of a motion requesting access, the court may provide access to JIS database records described in (f) after the court has reviewed the JIS database records and redacted pursuant to GR 15(c), any data which is confidential or restricted by statute or court rule.

(C) If the court grants access to restricted court records, the court may enter such orders necessary to balance the personal privacy and safety interests of the parties or dependent children with the public interest or the personal interest of the party seeking access, consistent with this rule.

[Adopted effective October 1, 2001; Amended effective July 1, 2006; August 11, 2009; July 27, 2021; September 1, 2022.]

2022 NEW Guardianship Policies & Office Hours

Updated June 2022

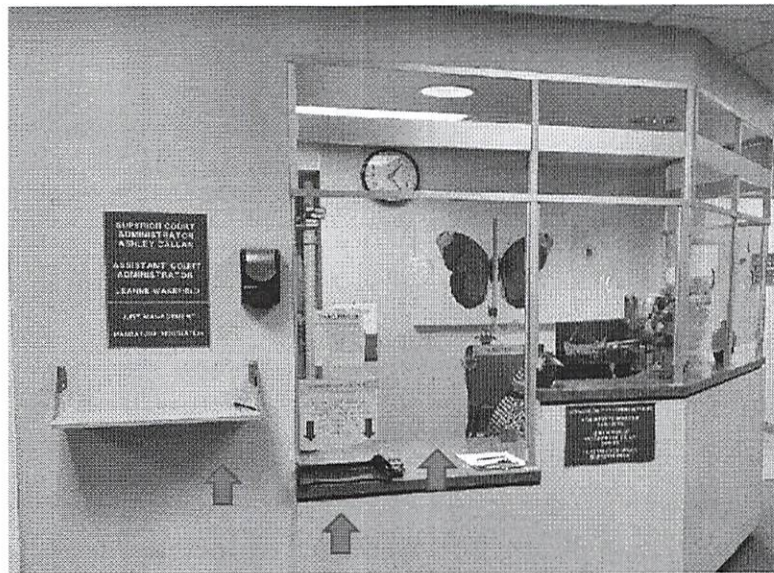
GMP NEW Office Hours – GMP Office Hours – Due to the ongoing demands of the new UGA Laws, Office hours will be as follows effective immediately:

Monday, Tuesday & Friday – 8:30 a.m. to Noon & 1-4 p.m.

Wednesday & Thursday*- 8:30 a.m. to 9:00 a.m. & 1-4 p.m.

*Wednesday & Thursday 9-Noon, GMP STAFF IS NOT AVAILABLE.

ONLY ONE DROP OFF LOCATION FOR ALL DOCUMENTS - DELIVER TO the **Court Administrator's Office**, 3rd Floor of the Annex, Guardianship Drop Box.



Call-In Ready Process-

- At least one party must call (509) 477-3886, no later than the Tuesday (by noon) before the Thursday hearing. Zoom appearance remains acceptable unless ORDERS are not timely.
- At least one party must call (509) 477-3886, no later than the Monday (by noon) before the Wednesday hearing. Zoom appearance remains acceptable unless ORDERS are not timely.
- Once a case is called in ready, it will be heard at the scheduled docket time, even if the action is to be dismissed or continued.
- ✎ ○ ALL parties should communicate prior to call in deadline to ensure the case is reported ready accurately.
- Hearings set by the Court require at least one party to call the case in ready.
- Any hearing not timely called ready may be stricken or sanctions imposed, at the judicial officer's discretion.

Orders for Weekly Guardianship Docket

- **ORDERS MUST BE RECEIVED the THURSDAY BEFORE the WEDNESDAY Hearing or the FRIDAY BEFORE the THURSDAY Hearing! IF NOT, the** → Order **MUST BE PRESENTED** in person, in the **courtroom** the day of the hearing.
- All Original Signed Orders for Called-In Ready Wednesday/Thursday Guardianship Hearings, should be labeled by placing a STICKY NOTE with HEARING DATE & TIME ON TOP OF ORDERS!
- Wednesday Guardians Hearings courtroom to be determined.

**SAMPLE STICKY NOTE*

HEARING DATE:
1/1/2060

TIME: 10:15 a.m.

Guardianship Ex Parte – Currently in Courtroom 304, Thursday Morning 9-9:30 a.m.

- Parties must be present to present orders and available for questions. DO NOT LEAVE until you know the Order has been signed. Orders will be reviewed and signed in chambers.
- Final Accounting Audits accepted, notice given and Order is submitted to be approved.

Weekly Guardianship Docket, Proposed Orders & Bench Copies - UPDATED PROCESSES PLEASE READ.

- Posted the day before scheduled hearing date, no later than 3p.m.
- Cases have been called in ready and will be heard at time listed.
- Parties will obtain time and Meeting ID # from weekly guardianship docket.
- Bench copies are NOT NECESSARY unless documents were not filed timely (10 days prior to hearing). All documents and/or Orders for Wednesday or Thursday hearings should be dropped off in the Court Admin office, 3rd Floor Annex, the Friday before the Thursday Hearing with STICKY NOTE (see above for example) with hearing date and time on top.
- Guardianship Participant Instructions via Zoom, Court Preferred Methods listed should be used to virtually attend hearings. Otherwise parties may appear in the Courtroom.

Annual Reports – Mail in process.

The mailing address is:

Spokane County GMP
1116 West Broadway, Room 202A
Spokane, WA 99260 0350

- All documents including the Order Approving MUST HAVE THE GUARDIAN/CONSERVATOR (CO-GUARDIANS/CO-CONSERVATORS) signature(s).
- A Guardian should file the Motion + Copy, Annual G/C Report + Copy, Order Approving + Copy, Declaration of Service + Copy & Self Addressed Stamped Envelope (SASE) must be mailed in.
- A Conservator should file the Motion + Copy, Annual G/C Report + Copy, Order Approving + Copy, Declaration of Service + Copy, Guardianship. Additionally, the following is needed: All bank statements (DO NOT FILE BANK STATEMENTS) including check images (not CHECK

CARBONS) for entire report period, additional supporting documentation (Tax Assessed Value of Property, Kelly Blue Book, Cash Receipt Journal, Burial Policy/Plans, etc.), cash receipt journal, receipts, & SASE must be mailed in.

- IF COPIES OR SASE are not provided NOTHING will be returned. Guardian/Conservator will have to purchase copies from the Clerk's Office, Room 300 after originals are filed.
- 90 Day Documents & Orders will follow the same process.

Annual Reports – In Person process.

Guardian/Currier is dropping off annual documents (single sided & stapled and filled out completely including dates and signatures), this process should be followed:

Stack 1- Annual Report with GUARDIAN/CONSERVATOR (CO-GUARDIANS/CO-CONSERVATORS) original signature(s), Motion to Approve, Declaration of Mailing, should be filed in the **Spokane County Clerk's Office, Room 300**, Incoming Pleadings Wooden Box. DO NOT STAMP THIS FORM.

Stack 2 – Date Stamped copy of Annual Report with GUARDIAN/CONSERVATOR (CO-GUARDIANS/CONSERVATORS) original signature(s), Motion to Approve, Guardianship, Declaration of Mailing, Original Signature Order Approving and one copy. DO NOT FILE OR STAMP THESE DOCUMENTS. Bank Statements and other supporting documentation and SASE ALL DELIVERED TO the **Court Administrator's Office, 3rd Floor of the Annex, Guardianship Drop Box.**

- IF COPIES OR SASE are not provided NOTHING will be returned.
- 90 Day Documents & Orders will follow the same process.

GMP Volunteer Auditors Update – Ever Changing Times -NEW -PLEASE READ

- GMP Volunteer Auditors are at a low, however we are out about 8 weeks turn-around time.
- GMP Staff are holding reports for the 30-day objection time prior to being reviewed and approved once declaration of service has been filed.
- GMP Staff will continue to issue one-page Petition & Order Extending Letters for Annual Reports waiting to be audited in the GMP Office.
- If the Annual Report has not been submitted/filed to the GMP Office, GMP Staff will not issue a Petition & Order Extending. Instead the Guardian or Attorney for Guardian is responsible for obtaining and submitting the forms to extend time via ex parte process.