

## RULE 94.04W

### FAMILY LAW PROCEEDINGS

#### (A) PROCEEDINGS PENDING TRIAL

(1) **Court's Automatic Order.** Upon the filing of a Summons and Petition for dissolution, legal separation or declaration of invalidity, the Court on its own motion shall automatically issue a Temporary Order consistent with Exemplar 11. The petitioner is subject to this order from the date of filing. The petitioner shall serve a copy of this order on respondent and file proof of service. The respondent is subject to this order from the time it is served. The order shall remain in effect until further order or entry of final documents. This order shall not be entered in any law enforcement data base, and shall not preclude any party from seeking any other restraining order as may be permitted by statute. If the order is violated, either party may seek a finding of contempt and/or request fees.

(2) **Motions for Temporary Orders.** Any party may file a motion for temporary orders pending trial.

(a) **Form of pleadings, basis and limitations.**

- (i) **Form.** All documents and copies provided shall be legible. If typed, documents shall be in 12 point or larger type, 1.5 spaced between the lines and conform to GR 14. Mandatory forms shall be used.
- (ii) **Basis.** Evidence, including written evidence in affidavits and declarations by the parties and witnesses, must comply with the rules of evidence.
- (iii) **Children's Statements.** Declarations by minors are disfavored.
- (iv) **Page Limitations.** Absent prior authorization of the court, the entirety of all declarations and affidavits from the parties and non-expert witnesses in support of motions (except financial declarations, financial documents and sealed source documents), shall be limited to a sum total of twenty (20) pages.

The entirety of all declarations and affidavits submitted in response to motions shall not exceed twenty (20) pages.

The entirety of all declarations and affidavits submitted in reply to the response shall not exceed ten (10) pages.

Exhibits to any declarations shall count toward the above page limits.

Declarations, affidavits and reports from the Family Court Investigator, GAL, CPS or law enforcement shall not count toward the page limit. Declarations in support of Parenting Plans shall not count toward the page limit but shall not exceed three (3) pages.

(v) **Violations of this rule.** If the Court finds that one or more of the parties violated this rule, the Court may, in its discretion, assess terms, strike or continue the matter, or refuse to consider the materials that violate this rule.

(b) **Filing and Service.** The moving party shall, no later than 14 calendar days prior to the hearing date, file with the clerk and serve on each other's party/counsel his/her motion, note for motion, and all supporting documents. Unless previously filed and still current, the moving party's supporting documents shall include these mandatory forms, fully completed and signed by the moving party:

(i) **Residential Placement.** A motion concerning temporary residential placement of children must be accompanied by a Proposed Parenting Plan (WPF DR 01.0400 ), and a Declaration in Support of Parenting Plan (WPF DR 04.0120).

(ii) **Temporary Child Support.** A motion concerning temporary child support must be accompanied by a Child Support Worksheet (CSW), together with proof of income including the partys' most recent paystub and tax return with all attachments.

(iii) **Temporary Spousal Maintenance or Attorney Fees.** A motion for temporary maintenance or attorney fees must be accompanied by a Financial Declaration (WPF DR 01.0550).

(c) **Response to Temporary Motions.** The opposing party's response must be filed and served no later than noon three (3) court days prior to the date scheduled for hearing; provided,

however, if the response requests affirmative relief, it must be filed and served no later than five (5) calendar days prior to the hearing. Documents filed in strict reply to issues raised in the response must be filed and served the day prior to the hearing by noon.

Responses filed and/or served later will not be considered. If the disputed issues include residential placement, temporary child support or spousal maintenance, or attorney fees, the appropriate mandatory forms shall be completed and signed by the responding party (unless previously filed and still current). Working copies should be provided to the court.

- (d) **Confirmation/Strike Process.** All domestic motions must be confirmed by the moving party **by 10:00 a.m., two (2) court days prior to the court hearing** or the motion will be stricken. The moving party shall confirm the motion by notifying the clerk (at the specific confirmation telephone number or e-mail address designated by the clerk) and any other party. The confirmation shall include the caller's name and telephone number, the case name and cause number, the date and time of the motion, and the date and time of the confirmation. Confirmation will not be effective unless this procedure is used. If the moving party fails to appear after confirming the motion, the court may strike the motion, deny the motion, impose terms, and order any other relief the court deems appropriate. If the responding party fails to appear, the court may grant the relief requested.

A moving party voluntarily striking a hearing shall notify the Clerk and other party no later than 4:00 PM the court day prior to the hearing.

- (e) **Renotes.** Matters which have been previously noted in conformance with this rule may be renoted upon five (5) court days notice. The motion shall be confirmed as provided above or it will be stricken.
- (f) **Hearings on Temporary Motions.** All motions shall be determined on sworn declarations unless the court determines that testimony is necessary. Argument on temporary motions shall be limited to five minutes per side, except that the court may in its discretion increase or reduce the time for argument. Argument shall be limited to matters contained in the record. By agreement of the parties or order of the court, the matter may be submitted solely on the record.

(g) **Orders Shortening Time.** Motions may be heard on shortened time only in the event of an emergency and where an Order Shortening Time has been signed by the court.

(3) **Orders to Show Cause.** Where required by statute or court rule, a party may obtain an Order to Show Cause requiring the other party to appear and show cause why certain relief should not be granted. The return date on the show cause order shall not be sooner than fourteen (14) days after filing and service. In all other respects, the requirements of LR 94.04W (A)(1) shall apply.

(4) **Mediation by Court Order.** In addition to mandatory mediation set forth below, in all contested Title 26 matters, a party may request, or the Court may order the parties to engage in mediation. Mediation shall take place as specified in the order of mediation. Failure to mediate in good faith may result in sanctions. The assigned mediator shall advise the Court of the date of the mediation, the parties participating and the outcome. If the matter is not resolved, the substance of the mediation shall remain confidential and the mediator may not be called as a witness in any proceeding.

(5) **Status Hearings.** At any time pending trial, the Court may order that a status hearing be held. The purpose of the status hearing shall be to set deadlines for the completion of discovery, set deadlines for the completion of the guardian ad litem's report, or address other matters necessary to the timely resolution of the case. A party may set a status hearing by following the procedures set forth in 94.04(A)(1). Status hearings shall be heard on the motions calendar.

## (B) **NONCONTESTED DISSOLUTIONS**

(1) No testimony or declaration will be required in cases in which the parties have stipulated to entry of the Decree or in cases in which the relief requested is the same as the relief requested in the petition and the other party is in default.

(2) In cases in which the relief requested is different or more specific than the original petition and the respondent has defaulted, the party requesting relief must appear and present testimony in support of the request.

## (C) CONTESTED DOMESTIC MATTERS

### (1) Mandatory Mediation

- (a) **Applicable Cases:** This rule shall apply to all pending and newly filed contested cases under Chapter 26.09, 26.10, and 26.26 except support modifications and parentage cases initiated by the State of Washington.
- (b) **Note for Trial:** Except as provided in (c) below, a party may not note a matter for trial until the parties have attempted mediation in good faith with a court approved mediator. The matter shall be noted for trial using Exemplar 3A, which shall include a certificate of compliance with this rule.
- (c) **When Mediation is not Required.** Mediation shall not be required in the following cases:
  - (i) For good cause shown upon motion and approval by the court; or
  - (ii) Where a domestic violence restraining order or protection order (excluding ex parte orders) involving the parties is currently in effect;
  - (iii) Where a domestic violence no contact order exists pursuant to RCW 10.99;
  - (iv) Where the court upon motion finds that domestic violence abuse has occurred between the parties and that such abuse would interfere with arm's-length mediation.

Notwithstanding the foregoing, either party may by motion seek a court order requiring mandatory mediation in a case where it would not be required as set forth in (c)(2), (c)(3), or (c)(4) above if the moving party believes that the parties would be able to mediate their dispute at arm's-length under the particular circumstances of the case.

- (d) **Settlement Conference:** Where mediation is not required or the parties have not mediated in good faith, the parties shall participate in a settlement conference as provided in (2). If the settlement conference does not result in an agreement, the matter shall be set for trial.
- (e) **Effect on Court Proceedings.** Mediation does not stay or otherwise affect the rights and duties of the parties established by statute, court rule, or court order. The court may enter temporary

orders and the parties may conduct discovery prior to or during the mediation process.

- (f) **Qualified Mediators:** The Yakima Superior Court shall maintain a list of qualified mediators which shall include the following information: each mediator's name and organization, if any, address, telephone number and fee schedule. A qualified mediator shall be either an attorney with at least five years domestic relations experience and mediation training or a non attorney with at least five years of domestic relations experience and mediation training. Mediators must be approved by the Superior Court. The Dispute Resolution Center of Yakima and Kittitas Counties shall be considered a qualified mediator. The Court may approve upon motion by a party or parties the services provided by a mediator that is not on the Court's list, but is otherwise qualified.
- (g) **Selection of Mediators:** The parties may either agree to a mediator from the court approved list or the mediator will be determined by use of a strike list. If the parties are unable to afford a private mediator, the Dispute Resolution Center of Yakima and Kittitas Counties shall be utilized. The parties shall notify the court and the mediator of the mediator selected. A mediator may decline an appointment, in which case the parties shall select a new mediator utilizing the same procedure.
- (h) **Mediation date and materials:** The mediator shall determine the mediation time and dates and whether or not mediation statements are required.
- (i) **Mediation Procedure:** The mediator shall determine how the mediation is conducted. The parties and their lawyers shall personally attend the mediation unless there is a written agreement between the lawyer and the client that the lawyer will not attend. In the event of such agreement, the mediator and the other party/lawyer will be notified in advance of the mediation. The mediator may approve telephonic appearances for parties who reside out of state.
- (j) **Cost of Mediation:** The mediator shall be paid by the parties. Payment responsibilities and arrangements shall be determined by the mediator and the parties.
- (k) **Failure to Comply:** Willful refusal to participate in mediation or willful delay in completing mediation may result in a finding of contempt or imposition of sanctions.

- (l) **Notice of Compliance/Agreement:** If no settlement is reached, the mediator shall, within 7 days, file with the Clerk with copies to the parties, a certificate showing that there has been compliance with this rule. If an agreement is reached in mediation, that agreement shall be reduced to writing and signed by the parties and their lawyers.
  - (m) **Incorporation of RCW 7.07:** The Uniform Mediation Act, RCW 7.07, is incorporated herein by reference, including but limited to the confidentiality of documents and mediator privilege protections of that Act.
  - (n) **Effective Date:** September 1, 2014.
- (2) **Settlement/Status Conference and Trial.** In the event that mediation is not required a settlement/status conference shall be held in all contested domestic relations cases, including custody modifications, paternity actions, other than those initiated by the State of Washington, non parental custody cases and meretricious relationship and civil union matters. The purpose of the settlement/status conference is to set timelines for the completion of discovery and guardian ad litem reports, identify disputed issues and pursue settlement of the case. Domestic relations cases shall not be set for trial unless ordered and after a full settlement conference has been held. Parties and assigned guardians ad litem shall attend the settlement conference.
- (a) **Note for Settlement Conference.** Once a response to a petition has been filed, and, if applicable, the Children Cope With Divorce class has been completed by the noting party, a party may request a settlement conference date by filing a Note For Settlement Conference (Exemplar 3A), together with a fully completed Position Statement (Exemplar 5). If there is a guardian ad litem or family court investigator assigned to the case, his/her name shall be listed on the Note for Settlement Conference.
  - (b) **Filing Position Statements.** The party who notes the matter for settlement conference shall file and serve his/her Position Statement contemporaneously. The other party shall file and serve a Position Statement no later than fourteen (14) days prior to the settlement conference. If either party fails to timely file a Position Statement or files an incomplete Position Statement, the judge/court commissioner may strike the settlement conference and impose terms.

- (c) **Settlement Conference and Trial Dates.** Upon receiving the Note for Settlement Conference and completed Position Statement, the Court Administrator shall schedule a settlement conference and shall send notice to the parties and any assigned guardian ad litem or family court investigator. The settlement conference shall not be scheduled sooner than sixty days after the Note for Settlement Conference is filed. At the conclusion of the settlement conference the Judge/Court Commissioner may direct the Court Administrator to set the matter for trial or may schedule an additional settlement conference. At the conclusion of the conference, the Court shall complete and the parties shall sign a Settlement/Status Conference order. (Exemplar 6)
- (d) **Position Statements**
- (i) Position statements must be in the form of Exemplar No. 5. The Position Statement shall be filed as a sealed source document and shall not be used for any other purpose or reviewed by the trial judge, unless specifically agreed by the parties. The Position statement shall indicate the proposed disposition of assets and liabilities, as well as proposed spousal maintenance, child support and residential placement of children, as applicable.
- (ii) **Asset List:** If distribution of assets is at issue, each party shall complete a list of assets, both community and separate. For each asset listed, the party shall provide a good faith opinion as to the fair market value of the asset as of the date of separation. With respect to real property assets, the party shall provide a copy of any appraisal or market analysis intended to be used at trial. With respect to retirements, pensions, investment or bank accounts, the party shall provide a copy of all statements referencing the value of such accounts as of the date of separation and the most recent statement. With respect business assets, the party shall provide a copy of the most recent profit/loss statement available and a copy of the most recent tax return with all schedules attached.
- (iii) **Liabilities List:** If distribution of debts is at issue, each party will provide copies of statements from the creditors listed, both as of the date of separation and the most recent statement.
- (iv) **Spousal Maintenance and Child Support:** If spousal maintenance or child support is at issue, each party shall file a copy of his/her most recent paycheck, together with the



most recent tax return if not already on file. Each party shall fill out a statement regarding monthly expenses.

**(D) MODIFICATION OF DECREE OF DISSOLUTION**

**(1) Parenting Plans**

- (a) Ex Parte Requests for Change in Primary Residential Care.**  
An ex parte request to change custody shall be denied unless an emergency is clearly established by the sworn declaration of the party seeking the change.
- (b) Petitions for Modification of Custody or Residential Placement.**  
A petition for a major modification of a parenting plan shall be commenced by filing a Summons, Petition, Proposed Parenting Plan and supporting declarations. The matter may be noted for adequate cause and temporary orders in conformance with LR 94.04(A)(1). If adequate cause is found, the matter may be noted for settlement conference by either party. If adequate cause is not found, the matter shall be dismissed.
- (c) Petitions for Minor Modification of Parenting Plans.**  
In any case in which the parenting plan provides for alternative dispute resolution, the party seeking a minor modification shall state whether alternative dispute resolution has been exhausted prior to filing the Petition. The court shall not consider the petition unless the alternate dispute resolution shall have been exercised in good faith. Failure to participate in good faith may result in the imposition of terms.

**(2) Child Support Orders**

- (a)** A petition to modify a child support order shall be commenced by filing a Summons, Petition, Child Support Worksheet and proof of income, including a copy of the partys' most recent paystub and tax return with all attachments.
- (b)** The documents, above-described, shall be served on the opposing party as provided by statute.
- (c)** The matter shall be noted for hearing in conformance with the procedures described in LR 94.01(1). The matter shall not be scheduled for hearing until at least 20 days have elapsed since service on the opposing party.

- (d) The petition shall be determined on declarations unless the court determines that oral testimony is required.

**(3) Modification of Spousal Maintenance**

- (a) A Petition to modify spousal maintenance shall be filed and served as provided by statute and civil rules.
- (b) The Petition shall be noted for hearing and served as provided by LR 94.04(1). If the court determines that there has been a sufficient change of circumstances since entry of the Decree, the matter shall be set for an evidentiary hearing. If the court finds there has not been a sufficient change of circumstances, the petition shall be dismissed.

**(E) CHILD SUPPORT**

**(1) Tax Exemption**

In determining how to award exemptions, the court should look to the percentage of the basic child support obligation paid by each parent, as well as each parent's obligation for day care expenses. In awarding the exemption, the court should also consider tax benefits available to either parent, for example, head of household status, child credits and day care credits.

- (2) Child support affidavit requirement regarding Public Assistance and notice to Office of Support Enforcement.

No temporary or permanent order for future or past due child support shall be entered by the court unless:

- (a) One or both parties shall have filed an affidavit declaring that the affiant has no children or stepchildren, who are the subject of the present order, who currently receive public assistance or live in a state funded placement out of the family home, and that neither spouse owes any past debt to the Washington State Department of Social and Health Services, (the affidavit shall be in the same form as Exemplar No. 7); or

The Office of Support Enforcement has been served with notice of the application for an order of support prior to hearing, fifteen (15) days for temporary orders and twenty-one (21) days for final orders.

**(F) TEMPORARY / PERMANENT PARENTING PLANS**

When implementing temporary or permanent parenting plans, and in addition to considering the criteria set forth in applicable statute and case law, the court may consider the following guidelines for alternative residential time.

**(1) Alternate Residential Time Guidelines For Yakima County**

**(a) Alternate Residential Time:** The following schedule shall be used only as a guideline in setting alternate residential time, based on the child's age:

**(i) 0 to 6 months:** Two hours, twice per week.

**(ii) 6 months to 1 year:** Two hours, twice per week; and  
a. four hours, once per week.

**(iii) 1 year to 3 years:** Two hours, twice per week; and  
a. eight hours, once per week.  
b. These holidays alternated each year, for eight hours each: Easter, July 4th, Thanksgiving, Christmas Eve, and Christmas Day.  
c. Overnight residential time is not usually recommended.

**(iv) 3 years to 5 years:** Two hours, twice per week; and  
a. Alternating weekends from Saturday at 9:00 a.m. until Sunday at 6:00 p.m.  
b. These holidays alternated each year: Easter, July 4th, Thanksgiving for 2 days; Christmas Eve and 2 days before and Christmas Day and 2 days thereafter.  
c. Summer residential time: Two non-consecutive one-week periods.

**(v) 5 years and older:** Every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m. If Friday is a school holiday, the weekend begins Thursday at 6:00 p.m. If Monday is a school holiday, the weekend ends Monday at 6:00 p.m.; and  
a. One weekday from 5:30 p.m. until 7:30 p.m., once per week.  
b. These holidays alternated each year: Thanksgiving for 4 days, the first half of Christmas school vacation the first

year and the second half of Christmas school vacation the next year, and spring vacation.

- c. Summer residential time: 30 days, unless the parents agree to a shorter or longer period of time, or the Court finds that there are circumstances which would extend or shorten summer residential time. During this summer time, the primary residential parent shall have residential time with the child during one weekend (except during extended trips, etc.).

- (b) **Father's/Mother's Day:** Regardless of the residential times suggested above, the mother shall have residential time of at least 4 hours on Mother's Day, and the father shall have residential time of at least 4 hours on Father's Day.
- (c) **Birthdays:** Each parent shall be allowed to spend at least 4 hours with the child to celebrate the child's birthday, and that parent's birthday, within two days of that birthday.
- (d) **Telephone Contact:** Reasonable telephonic contact with the child is usually appropriate, and should not be less than once per week for each parent during that parent's nonresidential time.
- (e) **Different Age Groups:** When children of different age groups are involved, the preference shall be to follow the guideline for the oldest child, so that the children remain together.
- (f) **Cancellation:** For weekend visits, the primary parent shall have the child available for one hour after the scheduled starting time. If the other parent does not pick up the child within that hour, then the weekend visit shall be deemed canceled.
- (g) These provisions are designed to encourage each parent to maintain a loving, stable, and nurturing relationship with the child. Each parent shall encourage the parent/child relationship of the other parent, and shall make residential arrangement decisions which are in the best interest of the child.

## **(G) PARENTING SEMINARS**

- (1) **Definition of Applicable Cases.** All domestic cases including dissolutions, legal separations, major modifications and non-state initiated paternity actions where the parties are parents of children under the age of 18, and

where a parenting plan or residential schedule is required, the parties shall attend an approved Impact on Children Seminar.

- (2) Impact on Children Seminars; Mandatory Attendance.** Within 60 days after service of a petition or initiating motion on the respondent, both parties shall participate in, and successfully complete, an approved Impact on Children Seminar. Standards for a court-approved Impact on Children Seminar are set forth in sections (7), (8) and (9) below. Successful completion shall be evidence by a certificate of attendance filed by the provider agency with the court.
- (3) Permissive Application.** The court may require parties in domestic violence actions brought under RCW 26.50, and non-parent parties in any domestic case, to attend an Impact on Children Seminar.
- (4) Special considerations/waiver.**

  - (a)** In no case shall opposing parties be required to attend a seminar together.
  - (b)** Upon a showing of domestic violence or abuse which would not require mutual decision-making pursuant to RCW 26.09.191, or that a party's attendance at a seminar is not in the children's best interest, the court shall either:

    - (i)** waive the requirement of completion of the seminar; or
    - (ii)** provide an alternative voluntary parenting seminar for battered spouses or partners.
  - (c)** The court may waive the seminar requirement for one or both parties in any case for good cause shown, or may approve an alternative delivery system so the party affected can still receive the same or similar child impact information.
- (5) Fees.** Each party attending a seminar shall pay a fee charged by the approved provider agency. The fees charged shall not be cost-prohibitive to the parties. The seminars shall be conducted at no cost to the county's general revenue allocation to the court.
- (6) Failure to comply.**

  - (a)** Non-participation, or default, by one party does not excuse participation by the other party. Respondent's refusal, delay or default will not delay the progress of the case to a final decree. Petitioner's refusal or delay will prevent the case from being set for

trial or any final order affecting the parenting/residential plan being entered. Willful refusal or delay by either party may constitute contempt of court and result in sanctions imposed by the court, or may result in the imposition of monetary terms, default and/or striking of pleadings.

(b) In post-decree actions in which attendance had previously been required but not completed or considered and waived, the moving party's motion or petition affecting a parenting plan shall not be entertained until that party has first completed a child impact seminar, unless approved by the court for good cause shown.

(7) **Provider Agencies.** Approved Child Impact Seminars shall be those offered by one or more individuals or counseling agencies approved by the court. "Approval by the court" means approval by a majority of the judges. Parties may use equivalent services offered by other courts, private agencies or religious organizations, upon approval by the judge in the individual case.

(8) **Seminar content.** A court-approved child impact seminar shall include, at a minimum:

- (a) the developmental stages of childhood;
- (b) stress indicators in children;
- (c) age appropriate expectations of children;
- (d) the impact of divorce on children;
- (e) the grief process;
- (f) reducing stress for children through an amicable divorce; mediation as alternative to litigation
- (g) the long-term impact of parental conflict on children;
- (h) importance of child's relationships with both parents; fostering those relationships;
- (i) communication skills for divorced parents;
- (j) practical skills for working together; and
- (k) the impact on children when step-parents and blended families enter their lives.
- (l) parenting children with limited time (alternate residential time limits)
- (m) involvement of extended family

(9) **Qualifications of Instructors.** Child impact seminars should be conducted by a team of not less than two instructors, including one male and one female. Instructors should have the following minimum credentials and experience;

- (a) a master's degree in social work, psychology or other related behavioral science;
- (b) supervised experience in treatment of emotionally disturbed children, adolescents and their families;
- (c) experience in providing a wide range of mental health services to children and families, with specific experience in the areas of separation/divorce, loss and grief, and blended families;
- (d) extensive knowledge of child development, age appropriate expectations for children, and positive parenting;
- (e) an ability to work with other agencies as part of a collaborative program; and
- (f) strong oral communication skills.

When parties choose to use agencies or religious organizations which have not received prior approval by the court, the court may modify or waive the foregoing qualifications for the instructors upon a showing of functional equivalency.

- (10) **Referrals for other services.** During the seminar, referral resources may be made available to the parties, and their children, including individual and family counseling, drug/alcohol counseling, anger management counseling, parenting classes, etc. These services are optional, and the parties must seek their own funding resources.

## **(H) GUARDIANS AD LITEM**

### **(1) Registry Administration**

- (a) The court shall maintain and administer Guardian ad Litem registries for Family Law and Guardianship/Probate/Trusts. These registries shall not include Juvenile Court volunteer Guardians ad Litem or CASAs, which shall continue to be administered independently by their respective programs.
- (b) The court shall maintain the application form and background information records pertaining to each person listed on a registry. Persons listed on a registry or registries shall update information annually on a date specified for each registry.
- (c) The application forms as described in paragraph 2, curriculum vitae, certificate of attendance at training, and guardianship certificates of qualification under Title 11 shall be available for public review.

- (d) All guardians ad litem on the registry shall be required to complete mandatory training. The court shall periodically sponsor or approve training programs which registry applicants shall be required to attend to maintain and improve their level of proficiency.
- (e) Each registry shall continuously open for new applications and persons applying shall be notified of their placement on the registry and the date thereof.
- (f) The court may impose an application processing fee and/or charge a fee for the training programs.

## **(2) Requirements for Listing on Registries**

### **(a) Education and Experience Requirements**

#### **(i) Attorneys**

##### **(1) Guardianship, Probate Registry**

Member of the Washington State Bar Association in good standing and five years of relevant experience in the practice of law.

##### **(2) Family Law Registry**

Member of the Washington State Bar Association in good standing and five years of experience in the practice of law, with at least 50 percent of that practice in family law or dependency cases.

#### **(ii) Non-attorneys**

##### **(1) Guardianship Registry**

Bachelor's degree in relevant subject area and five years' experience in the following: needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities and/or other areas relevant to the needs of incapacitated persons.

##### **(2) Family Law Registry**

A minimum of a Bachelor's degree in a relevant field and a minimum of five years' experience working with families and children.

##### **(3) Parentage Cases**

In RCW 26.26 actions, a relative of the minor mother or father may be appointed who has complied with the



requirements of RCW 26.12.175 and who is otherwise suitable.

**(b) Application Process**

Each application shall be accompanied by the following:

- (i)** Copy of the certificate evidencing successful completion of the current training required for the area of Guardian ad Litem practice;
- (ii)** Application and fee allowing the court to obtain a current Washington State Patrol Certificate regarding criminal history;
- (iii)** Curriculum vitae, showing work and professional or personal experience in or related to the field that would assist in the performance and completion of Guardian ad Litem duties;
- (iv)** Signed release of information directed to all professional regulatory bodies which have licensed or supervised the applicant within the last ten years;
- (v)** Certificate of Qualification for Guardians ad Litem seeking appointment under RCW Title 11;
- (vi)** Description of the nature, status and outcome of any professional complaints, investigations or disciplinary actions, lawsuits or professional liability claims, and any order for removal of the Guardian ad Litem prior to completion of the Guardian ad Litem's duties;
- (vii)** Description of any claims, or litigation that has been commenced, involving allegations of improper fee charges, charges of fraud, theft or other forms of dishonesty or professional malpractice or misconduct.
- (viii)** Description of fees charged.

**(c)** The applicant shall be of high moral character, and shall not have any of the following:

- (i)** Conviction of a felony or of a crime involving theft, dishonesty or moral turpitude;
- (ii)** A professional certification or license suspension or revocation;

(iii) Pending investigations or actions for any of the above.

**(3) Appointment of Guardian ad Litem**

- (a) When the need arises for the appointment of a Guardian ad Litem in a case involving a subject area for which there is a registry, the court shall appoint a person from the registry unless exceptional circumstances are found and findings are entered supporting appointment of a person not listed on the registry.
- (b) Appointments from the registries shall be made in the exercise of the court's sound discretion. The court may, but is not obligated to, appoint a person whom all the parties have stipulated to serve as Guardian ad Litem. Agreement of all parties will not suffice when one or more parties is alleged to be under a legal disability.
- (c) In making appointments from a registry, among other factors, the court will consider the facts of the case, and the skills, experience and knowledge of persons on the registry.
- (d) Guardians ad Litem shall be appointed from the registry in a manner which, to the extent possible, equalizes the workload among persons on the registry. Guardians ad Litem shall periodically notify the court of their current caseload, and shall promptly notify the court of any temporary unavailability to serve.

**(4) Retention on Registry/Grievance Procedures**

- (a) A person shall remain on the registry unless the person fails to maintain current application and training requirements, the person notifies the registry of his/her desire to be removed from the registry, or the person is removed or suspended as provided herein.
- (b) Complaints regarding a Guardian ad Litem shall be directed to the Court Administrator. All complaints shall be in writing on a form prescribed by the court and shall bear the name, signature and address of the complainant. A complaint must be filed within one year from the date of the acts complained of.
- (c) Complaints shall be forwarded to the presiding judge or his/her designee(s) and shall be processed as follows:

- (i)** If the complaint related to an on-going case, the complainant shall be advised that the complaint may be addressed only in the case at bar, either by seeking the removal of the Guardian ad Litem or by contesting the information contained in the Guardian ad Litem's report or testimony. Such complaints shall be processed in a manner which assures that the trial judge remains uninformed of the complaint. This process shall be completed in 25 days.
- (ii)** If the complaint relates to a case in which final orders have been entered, the presiding judge or his/her designee(s), shall review the complaint and either:

  - (1)** make a finding that the complaint has no merit on its face and so inform the complainant in writing; or
  - (2)** make a finding that the complaint may have merit and require the Guardian ad Litem to provide a written response within 10 business days. The Guardian ad Litem shall be provided with a copy of the complaint. The Guardian ad Litem's response to the complaint shall be reviewed and such additional investigation as deemed necessary shall be conducted. Findings shall be made as to whether and on what basis the complaint has merit, and such findings shall be forwarded to the Guardian ad Litem and complainant. If a complaint is found to have merit, the Guardian ad Litem may be admonished, reprimanded, referred for additional training, or suspended or removed from the registry. This process shall be completed within 60 days. If the Guardian ad Litem is removed or suspended, an order shall be signed.
- (d)** Complaints shall be confidential unless they are deemed to have merit. Findings regarding complaints determined to have merit shall be made part of the Guardian ad Litem's file and shall be made available upon request, provided, however, confidential information regarding the parties shall not be made available.
- (e)** If a Guardian ad Litem is removed from the registry pursuant to disposition of a grievance under this rule, the registry manager shall send notice of such removal to the Administrative Office of the Courts.

**(5) Payment of Guardians ad Litem:**

- (a)** In Family Law cases, the order appointing a Guardian ad Litem shall provide for payment of the Guardian ad Litem's fees. The court may order either or both parents to pay for the Guardian ad Litem's fees based upon their ability to pay. The Guardian ad Litem shall provide a monthly accounting of his/her time and billing for services to the parties. The order appointing the Guardian ad Litem shall provide that the Guardian ad Litem may charge up to \$3,000.00 without further court approval. Additional fees may be charged only with court approval.
- (b)** In Title 11 matters, the fee of the Guardian ad Litem shall be approved by the court. The fee shall be charged to the alleged incapacitated person unless the court finds such payment would result in financial hardship, in which case, the county shall be responsible for such costs. In matters where no guardian is appointed, the fee may be charged to the petitioner, the alleged incapacitated person or apportioned. If the petition is found to be brought in bad faith, the fee shall be charged to the petitioner.
- (c)** Guardians ad Litem paid at public expense shall accept compensation provided under the court's administrative order regarding such payment.