

**YAKIMA COUNTY SUPERIOR COURT
LOCAL GUARDIANSHIP RULES
Effective January 1, 2021**

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**LGuR 1
MINOR GUARDIANSHIP PROCEEDINGS**

(A) PROCEEDINGS PENDING TRIAL.

(a) *Court’s Automatic Order.* Upon the filing of a Summons ([Form GDN M 001](#)) and Petition ([Form GDN M 002](#)) filed under [RCW 11.130.190](#), the court shall automatically issue a Scheduling Order, Instructions and Temporary Restriction and shall schedule a hearing. The petitioner shall serve a copy of this order on all persons entitled to notice under [RCW 11.130.195](#).

(b) *Filing Fee Waiver.* A petitioner may request a waiver of filing fee and surcharges by filing a Motion and Declaration for Waiver of Civil Fees and Surcharges ([Form GR 34.0100](#)) or Yakima County Form along with a Financial Statement ([Form GR 34.0300](#)) and a proposed Order re Waiver of Civil Fees and Surcharges ([Form GR 34.0500](#)). No filing fee shall be charged by the court for the filing of a petition for minor guardianship where the potential guardian is a relative and not a professional guardian or conservator, per [RCW 11.130.170](#)(3).

(c) *Emergency Guardianship Order.* A petitioner may request an emergency guardianship order under [RCW 11.130.225](#) by filing a Summons ([Form GDN M 001](#)) and an Emergency Guardianship Petition ([Form GDN M 202](#)).

(i) When presented without notice under [RCW 11.130.195](#): The order on emergency minor guardianship petition shall be valid for no longer than sixty days and the order shall set a hearing within five days of the appointment of the emergency guardian for determination of the appropriateness of the appointment. The petitioner shall serve this order, with notice of the hearing, to all individuals entitled to notice listed in [RCW 11.130.225](#) within forty-eight hours of the emergency appointment.

(ii) When presented with notice to all parties listed in [RCW 11.130.195](#): The order for emergency guardianship will be valid for 60 days. The petitioner shall set a hearing not sooner than fourteen days and not longer than sixty days from the date of the order for further hearing on the petition for guardianship.

(d) *Hearing on Petition for Minor Guardianship.* Upon the filing of a petition for minor guardianship under [RCW 11.130.190](#) a hearing shall be set no sooner than fourteen days from the date of notice to all required persons. All hearings regarding Minor Guardianship cases shall be set and heard on the Minor Guardianship Docket.

- (i) On the motion of a party or by the court on its own, the hearing may be continued and an order entered setting dates for disclosure of witnesses and exhibits, for discovery cut-off dates, setting a status or pre-trial hearing, and a new hearing date.
 - (ii) Full Hearing. On the date set for a full hearing on this matter each party is entitled to present evidence.
 - (iii) The rules of civil procedure and rules of evidence shall apply at the hearing.
- (e) *Notice of Hearings under [Chapter 11.130 RCW](#).*
 - (i) The notice of hearing shall be in 16-point font and in plain language inform the person being served of the date, time, location and other information necessary to attend the hearing if the hearing is to be held remotely. The notice shall also inform the minor and his or her parents of their right to request appointment counsel under [RCW 11.130.200](#), to object to the appointment of a guardian, and shall contain a description of the nature, purpose, and consequences of appointment of a guardian.
 - (ii) Notice for the minor must specifically state all rights retained by the minor including the right to request counsel, the right to attend, and the right to participate and communicate with the court, and information on how the minor can respond to the petition. Notice for the minor must also state whether the court has entered any prior order limiting information served upon the minor, and that the minor may ask the court to reconsider the court's order at any time.
 - (iii) The hearing on petition for minor guardianship shall be held not sooner than fourteen days from the date of notice to all required persons.
- (f) *Form of pleadings, basis and limitations.*
 - (i) Form. All documents and copies provided shall be legible and conform to [GR14](#). There is a strong preference they be typed, 12-point or larger font with 1.5 line spacing or greater. Notices shall be in 16-point font.
 - (ii) Basis. Evidence, including written evidence in affidavits and declarations by the parties and witnesses must comply with the rules of evidence.
 - (iii) Page Limitations. Absent prior authorization of the presiding commissioner or different judicial officer if the commissioner is not available, 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). Exhibits to any declarations shall count toward the above page limits. Declarations, affidavits and reports from the Court Visitor, GAL, CPS or law enforcement shall not count toward the page limit.
- (g) At the time the Summons and Petition is filed, the Petitioner shall file:
 - (i) A Motion for DCYF Order ([Form GDN M 404](#)) and proposed Order to DCYF to Release CPS Information ([Form GDN 405](#)) listing the names and dates of birth for the petitioner and adult members of the petitioner's household, and for the proposed guardian if he or she is not a petitioner; and
 - (ii) A proposed [Confirmation of Judicial Information System Review by Court](#) (Yakima County Form) listing the names and dates of birth for the petitioner, proposed guardian and adult members of the their households.

(h) Within seven days of the filing of a Summons and Petition, the Petitioner shall provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system for the petitioner and adult members of the petitioner's household by filing the results using the Criminal History Coversheet ([Form GDN M 407](#)).

(B) Order of appointment of guardian.

(a) An order of appointment of guardian shall comply with [RCW 11.130.215](#).

(C) Parent-child Contact.

(a) Consistent with [RCW 11.130.215](#) if a petition for guardianship is granted, the order granting guardianship shall preserve the parent-child relationship through an order for parent-child visitation and other contact, unless the court finds the relationship should be limited or restricted under [RCW 26.09.191](#); and which may include decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(b) *Form of order for parent-child relationship.* [Form GDN M 104](#), "Residential Schedule" shall be used.

(D) Modification of order appointing guardian.

(a) Consistent with [RCW 11.130.240](#) a minor subject to guardianship or a person interested in the welfare of the minor, including a parent, may petition the court to terminate the guardianship, modify the guardianship, remove the guardian and appoint a successor guardian, or remove a standby guardian and appoint a different standby guardian by filing a Summons ([Form GDN M 001](#)) and Petition to Terminate or Change Minor Guardianship or Non-Parent Custody Order ([Form GDN M 502](#)).

(b) Petitions for modification or termination of a guardianship must comply with these rules regarding notice, form, basis, and limitations. Such petition must be supported by affidavit or declaration and served in compliance with [RCW 11.130.240](#).

(E) Child Support.

(a) The petition for the appointment or modification of a minor guardianship may request child support pursuant to [chapter 26.19 RCW](#).

(b) Temporary support shall be in accordance with [RCW 11.130.257](#).

(c) Until such forms and worksheets are drafted specifically for the purpose of establishing and modifying child support for minor guardianships, current family law forms may be used and modified as needed.

(F) Restraining orders, orders for protection and antiharassment.

(a) A petition for the appointment or modification of a minor guardianship may request restraining orders consistent with [RCW 11.130.257](#).

(b) Domestic violence protection orders and antiharassment orders may be requested by filing a separate civil action in accordance with [chapter 26.50 RCW](#) or [chapter 10.14 RCW](#). Any petition for the appointment or modification of a minor guardianship shall clearly disclose any current domestic violence protection order, antiharassment order, or criminal no contact order, including the name of the court issuing the order and the cause number.

(c) All hearings set regarding a petition for a domestic violence protection order or antiharassment order shall be set before the department designated to hear minor guardianship cases.

(G) Other cases involving the minors.

(a) A petition for the appointment or modification of a minor guardianship shall disclose any case that involves the minors in a minor guardianship case, including family law cases, dependency cases, or criminal cases; and, shall include the name of the court in which the action was filed and the cause number.

(H) Relocation of Children.

(a) *How Initiated.* An action for Relocation of Children is commenced by filing and serving a Notice of Intent to Move with Children (Relocation) ([Form FL Relocate 701](#)) or Summons: Notice of Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation) ([Form FL Relocate 720](#)) and Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation) ([Form FL Relocate 721](#)) under the existing Guardianship. Prior to the trial, any hearing regarding the Objection about Moving with Child or temporary relocation shall be heard on the Minor Guardianship motion docket.

(b) *Case Schedule.* The Clerk's Office shall issue a Scheduling Order, Instructions and Temporary Restriction and shall set a hearing date on the Minor Guardianship docket not less than six days from filing.

(I) Mandatory Forms. Mandatory forms available from the [Washington Court's website](#) shall be used unless [Yakima County](#) has adopted an alternate form.

(J) Attorneys at Public Expense. Any minor age twelve or older may request the court to appoint an attorney at public expense. Any parent wishing to have an attorney appointed to represent him or her due to indigency must file a request for Appointment of Counsel at Public Expense and present a proposed Order Appointing Counsel at Public Expense. Both forms are available at the Clerk's Office or on the [Yakima County Superior Court website local court rules](#) page.

(K) Nonparental Custody Actions ([Chapter 26.10 RCW](#)).

(a) The court will no longer accept Petitions for Nonparental Custody pursuant to [chapter 26.10 RCW](#) after December 31, 2020.

(b) After December 31, 2020, the court will not consider any motion or petition to establish, change, or terminate any temporary order (including, but not limited to, restraining orders, orders of protection, custody/visitation or child support) issued in an open Nonparental Custody case.

(c) Any person wishing to modify or vacate an existing order in a non-parental custody case originally filed under [chapter 26.10 RCW](#) shall file a Petition for Minor Guardianship consistent with [chapter 11.130 RCW](#).

(d) Any Family Court Investigator or Guardian ad Litem appointed in a Nonparental Custody case is discharged effective January 1, 2021. The parties in a Minor Guardianship may move to reinstate an FCI/GAL if a Minor Guardianship is sought for a child subject to

a Nonparental Custody action in which an FCI/GAL investigation is terminated by this rule.

(L) Court Visitors and Guardians ad Litem.

(a) The court shall maintain a list of qualified persons willing to be appointed as a court visitor or guardian ad litem for minor guardianship cases consistent with the statutory requirements of [chapter 11.130 RCW](#).

[Adopted December 3, 2020, as an emergency rule effective January 1, 2021.]

**LGuR 2
GUARDIANS AD LITEM AND COURT VISITORS**

(a) Registry Administration

(1) The court shall maintain and administer guardian ad litem registries for Family Law and Guardianship/Probate/Trusts and two separate court visitor registries for Minor Guardianships/Conservatorships/Protective Arrangements and Adult Guardianships/Conservatorships/Protective Arrangements. These registries shall not include Juvenile Court volunteer guardians ad litem or Court Appointed Special Advocates (CASAs), which shall continue to be administered independently by their respective programs.

(2) 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 required by this rule annually on a date specified for each registry.

(3) The application forms as described in section (b), curriculum vitae, certificate of attendance at training, and guardianship certificates of qualification under [Title 11 RCW](#) shall be available for public review.

(4) All guardians ad litem and court visitors 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.

(5) Each registry shall be continuously open for new applications and persons applying shall be notified of their placement on the registry and the date thereof.

(6) The court may impose an application processing fee and/or charge a fee for the training programs.

(b) Requirements for Listing on Registries.

(1) *Education and experience requirements.*

(A) Attorneys

(1) Guardian ad litem Guardianship, Probate Registry and court visitor Guardianship/Conservatorship/Protective Arrangement 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.
- (B) Non-attorneys
- (1) Guardianship guardian ad litem and court visitor Registries: Bachelor's degree in relevant subject area and five years' experience in the following: working with families and children, 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 [chapter 26.26A RCW](#) 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.
- (2) *Application Process.* Each application shall be accompanied by the following:
- (A) Copy of the certificate evidencing successful completion of the current training required for the area of guardian ad litem practice or court visitor;
- (B) Application and fee allowing the court to obtain a current Washington State Patrol Certificate regarding criminal history;
- (C) Curriculum vitae, showing training, 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 and level of formal education;
- (D) Signed release of information directed to all professional regulatory bodies which have licensed or supervised the applicant within the last ten years;
- (E) Certificate of Qualification for guardians ad litem and court visitors seeking appointment under [Title 11 RCW](#);
- (F) 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 or court visitor prior to completion of the guardian ad litem's or court visitor's duties;
- (G) 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.
- (H) Description of fees charged.
- (I) If the applicant has previously been admitted to a registry in this or any other county, the applicant shall provide:
- (1) The number of appointments as a guardian ad litem or court visitor and the county or counties of appointment.
- (2) The number of years' experience as a guardian ad litem or court visitor
- (3) The names of any counties in which the person was removed from a guardian ad litem or court visitor registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court removed the person for cause.

- (3) The applicant shall be of high moral character, and shall not have any of the following:
 - (A) Conviction of a felony or of a crime involving theft, dishonesty or moral turpitude;
 - (B) A professional certification or license suspension or revocation;
 - (C) Pending investigations or actions for any of the above.

(c) Appointment of Guardian ad Litem or Court Visitor

- (1) When the need arises for the appointment of a guardian ad litem or court visitor 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.
- (2) 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 or court visitor. Agreement of all parties will not suffice when one or more parties is alleged to be under a legal disability.
- (3) 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.
- (4) Guardians ad litem and court visitors shall be appointed from the registry in a manner which, to the extent possible, equalizes the workload among persons on the registries. Guardians ad litem and court visitors shall periodically notify the court of their current caseload, and shall promptly notify the court of any temporary unavailability to serve.
- (5) Guardians ad litem and court visitors may temporarily decline appointments due to their workloads. However, each guardian ad litem and court visitor must accept a minimum of one appointment annually. Any guardian ad litem or court visitor suspended for failure to accept a minimum of one annual appointment may be reinstated by the Presiding Judge.

(d) Retention on Registry/Grievance Procedures

- (1) 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.
- (2) Complaints regarding a guardian ad litem or court visitor 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.
- (3) Complaints shall be forwarded to the presiding judge or his/her designee(s) and shall be processed as follows:
 - (A) 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/court visitor or by contesting the information contained in the guardian ad litem's or court visitor'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.
 - (B) 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 or court visitor to provide a written response within 10 business days. The guardian ad litem or court visitor shall be provided with a copy of the complaint. The guardian ad litem's or court visitor'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/court visitor and complainant. If a complaint is found to have merit, the guardian ad litem or court visitor 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 or court visitor is removed or suspended, an order shall be signed.

(4) 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 or court visitor's file and shall be made available upon request, provided, however, confidential information regarding the parties shall not be made available.

(5) If a guardian ad litem or court visitor 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 (AOC).

(e) Payment of Guardians ad Litem and Court Visitor.

(1) 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.

(2) In [Title 11 RCW](#) matters, the court shall set the hourly rate and maximum amount in the order appointing the guardian ad litem or court visitor. The fee shall be charged to the individual subject to conservatorship or individual subject to guardianship 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 or conservator is appointed, the fee may be charged to the petitioner, the individual subject to conservatorship/guardianship or apportioned. If the petition is found to be brought in bad faith, the fee shall be charged to the petitioner.

(3) Guardians ad litem and court visitors paid at public expense shall accept compensation provided under the court's administrative order regarding such payment.

(f) Application of Washington's Superior Court Guardian ad Litem Rules to Court Visitors.

(1) Unless otherwise provided by statute, this court's local court rules, or orders entered in individual cases, Rules 2, 3, and 4(a) through 4(g) of the Superior Court Guardian ad Litem Rules shall apply to court visitors.

[Adopted December 3, 2020, as an emergency rule effective January 1, 2021.]