

From: [Brown, Zachary K \(ATG\)](#)
To: [LR Comments](#)
Subject: AGO SHS SEA Division Comments to the proposed rule change to LJuCR 2.5 Modification of Shelter Care order
Date: Wednesday, April 23, 2025 2:02:19 PM
Attachments: [LJuCR 2.5 Proposed Emer AmendmentAAG Comment.docx](#)
[LJuCR 2.5 Proposed Emer Amendment AGO \(003\).docx](#)

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Please see the two attached comments by the SHS SEA Division of the Attorney General's office. Please let me know if you have any questions.

Thank you!

Zach

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For proper service, documents must be sent to SHSSEAEF@atg.wa.gov

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The issue is that the rule does not set out a specific briefing schedule for continued 30 day hearings for issues other than those contemplated by the statute, which have to do with visitation.

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The prior rule was clear about needing *briefing* filed by noon 3-days before the hearing have any contested issues properly before the court at the 30-day (“(3) Notice of Issues”). So instead of the 6-days under LJuCR 1.8, for the first 30-day a motion to modify placement, visits, etc. could be brought on just the 3-day schedule under LJuCR 2.5(3).

This new rule doesn’t reference any briefing. The new (a)(2) only refers to reports pursuant to RCW 13.34.065(7)(a)(ii) – which is specifically reports to overcome the presumption of visits going to unsupervised.

Then new section (b) says that shelter care hearing order may “also” be modified per LJuCR 1.8. The “also” doesn’t make sense when (a) doesn’t actually provide a mechanism for modifying shelter care orders (but just provides for overcoming the unsupervised presumption).

LJuCR 2.5 MODIFICATION OF SHELTER CARE ORDER

Emergency & Permanent Rule Change to align rule with
In re Dependency of Baby Boy B., 554 P.3d 1196 (Wash. S. Ct. Aug. 29, 2024)

(a) 30-Day Hearings ~~and New Issues.~~

(1) ~~Scheduling.~~ The initial 30-day shelter care hearing must be scheduled by the petitioner by filing a Note for Calendar upon filing the action. If the child remains out of home and has not yet been found dependent as to a known parent, each 30-day shelter care hearing order must set an additional 30-day shelter care hearing. ~~Time.~~ The second hearing shall be set within 30 days of the first hearing, unless by agreement on the record or in writing of all parties or the order of the court.

(2) ~~Procedure.~~

~~(A) If the court previously ordered that visitation between a parent and child be unsupervised, then unless any party seeks to raise issues pursuant to subsection (a)(3)~~

of this rule, a hearing in open court will not occur, parties' presence will be excused, and the court will enter an order continuing the terms of the 72-hour shelter care hearing.

~~(B) If the court previously ordered that visitation between a parent and child be supervised or monitored, and no party has timely provided a report as described in subsection (a)(2)(C) of this rule, then a hearing in open court will not occur, parties' presence will be excused, and the court will enter an order removing any requirement for supervision or monitoring of visitation but continuing the remaining terms of the 72-hour shelter care hearing.~~

~~(C) If the court previously ordered that visitation between a parent and child be supervised or monitored, and a party has timely provided a report not later than noon three days prior to the 30-day shelter care hearing that includes evidence establishing that removing visit supervision or monitoring would create a risk to the child's safety, then the court shall hold a hearing and determine on the record whether visit supervision or monitoring must continue.~~

(2) Report. The deadline for any report filed pursuant to RCW 13.34.065(7)(a)(ii) is noon three days before the 30-day shelter care hearing. Responses must be filed and served by noon the day before the hearing. Working copies should be provided as outlined in LJuCR 1.8(b)(4).

~~(3) Notice of Issues:~~ Any party seeking to address an issue at the 30-day shelter care hearing shall file and serve a brief identifying the issue not later than noon three days prior to the hearing. Responses must be filed and served by noon the day before the hearing. Working copies should be provided as outlined in LJuCR 1.8(b)(4).

(3) Hearing. The parties may waive or continue a 30-day shelter care hearing by submitting an agreed proposed order. Absent such agreement, the 30-day shelter care hearing will be held in open court.

(b) Modification of Shelter Care Order after 30-Day Hearing. A shelter care hearing order ~~also~~ may be modified upon motion filed. An additional shelter care hearing can be set by filing a motion in accordance with LJuCR 1.8.

Commented [KS1]: It is important to have a pleading schedule for responses in order for the petitioner to sufficiently address them at a 30-day hearing. This is consistent with the practices outlined in LJuCR 3.9(1) and LJuCR 1.8.

Commented [KS2]: "Also" should be omitted here as it implies that modifications of the SCH order beyond those permitted by RCW 13.34.065(7)(a)(ii) are permissible at a 30 day hearing. To be very clear, the rule could read "Except as provided in LJuCR 2.5(a)(2), a shelter care hearing order may be modified upon motion filed in accordance with LJuCR 1.8."