



April 26, 2023

Ms. Barbara Miner, County Clerk
Superior Court Clerk's Office
ATTN: Local Rules
516 Third Ave, Rm E-609
Seattle, WA 98104-2363

Via email to lrcments@kingcounty.gov
Copy by delivery.

In Re: Proposed Local Rules
LCR 98.22 Minor Guardianship and NonParental Custody

Dear Clerk Miner:

We appreciate the efforts to clarify and finalize LCR 98.22. Our involvement in Minor Guardianship matters is assisting and advising pro-se parties or pro-bono attorneys representing low-income individuals in minor guardianship litigation. King County Bar Association is a qualified legal service provider. Since changes in the UGA statute, RCW 11.130, in June of last year, we have assisted in over 60 minor guardianship cases in King County.

Attached is a Word version and a pdf version of the proposed rule 98.22 with our comments. We hope our suggestions will be considered and incorporated in the final version. We trust that the final rule 98.22 will clearly outline procedures in compliance with the statute to allow a pro-se party to easily understand each step.

We are particularly concerned about confusion over current procedures for emergency and immediate emergency guardianships. We expect that the amended rules will conform with the statute and mandatory state forms, clearly state local procedures, and eliminate repetitious filings.

Changes to the statute last year expressly eliminated the requirement for a separate Petition for an Emergency Guardianship (GDN M 202) when a Minor Guardianship is filed or pending, instead allowing a Motion (GDN M 206) in the Minor Guardianship proceeding. See RCW 11.130.225(1). We have found that some judicial officers have required the filing of an EMG Petition when a MG Petition is pending and a Motion for Emergency Guardianship has been or could be filed in lieu of a Petition. Accordingly, the rule should clearly reflect that a Motion for EMG (Form 206) can be made in a MG case without the necessity of filing a Petition for EMG (Form 202).

We have also found that some judicial officers are requiring both the Motion for Immediate Order (Form 204) and the Motion for Emergency Guardianship (Form 206) before entertaining an EMG Order (Form 203) when an Immediate Order and Notice (Form 205) has been entered and served. Filing of both motions (204 and 206) contradicts the instructions on page 1 of the mandatory Form 204, which states "If you use this form you do **not** need GDN M 206 Motion for Emergency Minor Guardianship." Appropriately, the facilitator's guide "*How to Ask for an Immediate Minor Guardianship Order*" makes no

mention of Form 206. See: [https://kingcounty.gov/~media/courts/superior-court/docs/family/Minor%20Guardianship/Motion for Immediate Guardianship Order.ashx?la=en](https://kingcounty.gov/~media/courts/superior-court/docs/family/Minor%20Guardianship/Motion%20for%20Immediate%20Guardianship%20Order.ashx?la=en)

Furthermore, filing of both motions (204 and 206) is unnecessary because Form 204 was recently updated to include the legal standard for Emergency Minor Guardianship in Section 8, "Extend Immediate Orders," beneath the second checkbox (see Page 4). In the updated version, the petitioner must now enter information in support of the legal standard. The filing of 206 in addition to 204 is therefore repetitious. The two motions are substantially similar and present the same information to the Court.

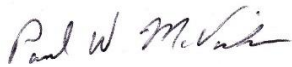
We would also note that the following sentence contained in the emergency rule was removed and is not included in the proposed final rule: "If the Motion for Immediate Order (Ex Parte) Emergency Minor Guardianship and Restraining Order (GDN M 204) is filed at the same time as a Minor guardianship Petition or within the same cause of action as a Minor Guardianship, a party must also file a Motion for Emergency Guardianship."

Accordingly, to avoid repetitious filings and to conform with the mandatory state forms, Rule 98.22 should expressly provide that a Motion for EMG (Form 206) is not required when a Motion for Immediate order (Form 204) is filed in a MG or in an EMG case.

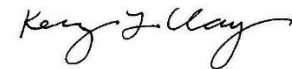
Other recommendations we have made are intended to make the rule clearer to understand and avoid repetition.

Thank you for your courtesy and consideration.

Very truly yours,



Paul W. McVicker
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Kinship Care Solutions Project



Kerry Clayman
Staff Attorney
Legal Advice and Referral for Kinship Care (LAARK)

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Enclosures: Comments on LRC 98.22 – PDF and Word

(c)(b) Response and Reply. No response to a motion for reconsideration shall be filed unless requested by the court. No motion for reconsideration will be granted without such a request. If a response is called for, a reply may be filed within two judicial days of service of the response.

(d)(e) Form of Proposed Order. The moving party and any party given leave to file a memorandum in opposition shall attach an original proposed order to the working copies submitted to the hearing judge. Working copies shall be submitted pursuant to the requirements of LCR 7(b) to the extent not inconsistent with this rule.

LCR 98.04 ESTATES - PROBATE - NOTICES

(g) Oaths. The Personal Representative(s) name must be typed or printed on the oath as it appears in the order. When a Personal Representative in an estate changes his or her name, he or she must obtain an order for new letters and file an oath under the new name in order to receive new letters. ~~The expiration date of the letters shall remain the same unless changed by the new order.~~

LCR 98.22 MINOR GUARDIANSHIP AND NONPARENTAL CUSTODY

(a) Applicability. This rule ~~applies shall apply~~ to petitions for guardianship of a minor filed pursuant to ~~RCW ch. 11.130, RCW~~ and to modifications and terminations of nonparental custody orders pursuant to RCW 26.10. *1

Commented [PM1]: *1 Add at end of sentence: and RCW 11.130 or RCW 11.130.245.

(b) Forms. The statewide guardianship pattern forms (GDN M 001-605) shall be used for all court filings in these matters ~~unless there is a specific local form~~. If there is ~~a local~~ no statewide guardianship pattern form, parties ~~shall may~~ use the local forms. The pattern forms can be found at www.courts.wa.gov. The Party Information Form ~~is and Motion for Appointment of a Visitor are~~ local forms ~~and are~~ available here: <https://kingcounty.gov/courts/clerk/forms.aspx>. For cases filed on or before December 31, 2022, parties must file a Party Information Form (PIF). For cases filed after January 1, 2023, parties must file a Confidential Information Form (CIF)(GDN M 410).

(c) Proceedings.

(1) How Initiated. An action for Guardianship of a minor brought by a nonparent must be filed under a new cause number ~~and cannot be commenced under an existing case~~. The case is ~~started~~ commenced by the filing of ***3** a Summons, Petition, and Declaration Explaining the Reasons for Minor Guardianship. If there are multiple minors involved who do not have the same parents, a separate case must be filed for each minor or group of minors, who have the same parents. *2

Commented [PM2]: *3 strike remainder of sentence, replace with: the documents listed in (A) below.

Commented [PM3]: *2 Note only: Not included in statute, included in State forms

(A) and Motion to Withhold Certain Documents Required at Filing. The petitioner must file a Summons, Petition, Declaration Explaining from the Minor. (Optional: Although optional, it is highly recommended that the issue of whether minors receive the Reasons for Minor Guardianship, and the Party Information Form (if filed on or before December 31, 2022) or the Confidential Information Form (if filed after January 1,

~~2023) documents be considered and resolved at the initial stage of the proceedings.) *4~~ At the time of filing, the petitioner shall submit the Motion and Order Directing DCYF/CPS to Release Information, the Party Information form, if filed on or before December 31, 2022 or the Confidential Information Form, if filed after January 1, 2023 and the Order to Withhold Certain Documents from the Minor (optional) to Ex Parte via the Clerk.

~~Note: If the children subject to the guardianship do not have the same parents, separate cases must be filed for each child or group of children who have the same parents.~~

Immediately after ~~filing the case and~~ receiving the Case Schedule from the clerk, the petitioner must complete the Notice of Hearing (GDN M 10 1) with the date and time that the court has set. *5 making sure to add to the Notice of Hearing and the list of people entitled to notice. The hearing shall be noted on the Ex Parte Guardianship calendar, not with the assigned judge. The Notice of Hearing, ~~should be served along with the~~ Summons, Petition, *6 and Case Schedule must be served on all parties entitled to service.

(B) Other Documents to Submit at Filing. Although not required for filing, it is highly recommended that the following documents be submitted at the time of filing or as soon after filing as possible. If applicable, the Petitioner shall submit the Motion and Order to Withhold Certain Documents (GDN M 404 and 405) from the Minor to Ex Parte via the clerk. The initial Orders appointing a Guardian ad Litem, Attorney, and/or Visitor as applicable to each case shall be presented through Ex Parte via the clerk. The forms are located here: <https://kingcounty.gov/courts/superior-court/ex-parte-probate/Minor-Guardianships.aspx>. *7 *8

(2) *9 Requirements. The petitioner(s) shall promptly obtain and file a Washington State Patrol check and obtain an order for and Child Protective Services (CPS) background checks on the proposed guardian and all adult household members of the guardian. The Motions and Order to DCYF to Release CPS information (GDN M 404 and 405) shall be presented through Ex Parte via the Clerk. The proposed Guardian shall attend the mandatory lay guardian training *9A -within 60 days of filing or, if the training is not yet available, within 60 days of the training being available.

(3) Case Assignment. All Minor Guardianship actions shall be assigned to the Unified Family Court judge(s) designated by the Chief UFC Judge. All motions will be heard in the Ex Parte Department on the Ex Parte Guardianship Calendar unless this rule provides otherwise provided herein or otherwise ordered by the court. Upon certification by an Ex Parte Commissioner or the assigned judge that a case is contested, a trial date will be assigned and additional deadlines set. If a case is set for trial then all motions will be heard by the assigned judge. Until a case has been set for trial, no discovery shall be permitted.

(4) Finalization. Agreed or default Minor Guardianship finalizations shall be noted on the Ex Parte Guardianship Calendar or may be completed at the Status Hearing.

(d) Presentation of Order Appointing Guardian Ad Litem or Visitor. The initial Orders appointing a Guardian ad Litem, Attorney, and Visitor shall be presented via the Clerk to the Ex Parte Department.

(e) Notice and Hearing. Except as otherwise noted in this rule herein, all hearings shall be scheduled with a Note for Calendar on the Ex Parte Guardianship Calendar at 10:30 a.m. The

Commented [PM4]: *4 This should be deleted, the first part is included in (2) below and the second part is repetitious of the previous sentence.

Commented [PM5]: *5 reword for clarity: "making sure to include the Notice of Hearing Attachment with..."

Commented [PM6]: *6 add: Declaration Explaining Reasons (11/130/195 (1)(a))

Commented [PM7]: *7 Consider putting the form numbers in for all documents, not just the Motion and Order to Withhold. Also, the link provided for locating the forms does not have all the forms referenced. Please consider putting a link for the place to find each of the individual forms. It would be particularly helpful to pro-se parties.

Commented [PM8]: *8 This rule requires petitioners to submit motions to withhold, appoint a GAL, Attorney or Court Visitor to Ex Parte via the clerk. However, what is required should the motion be required to be "noted" or deferred by a Commissioner to the judge? Should the petitioner resubmit to Ex Parte with Notice to parties? What advance notice would be required and how should notice be served? Should the Petitioner pick a date for hearing before the judge? What advance notice would be required? Please consider specifying the procedure if the presentation of the initial orders in Ex Parte are disallowed or streamlining a process for having the motions heard without undue burden or obstacles to pro-se parties.

Commented [PM9]: *9 Change to "Other Prompt Requirements." Add "promptly" after "shall be".

Commented [PM10]: *9A add online at the Washington Court Website (insert link)..

Note for Calendar shall be filed at least 14 days prior to the scheduled hearing date. ~~The Ex Parte judicial officer may set special hearings at other times at their discretion.~~ Any party opposing a motion shall file and serve responsive ~~pleadings papers in opposition~~ to a motion not later than ~~12:00~~ noon four judicial days before the date the motion is scheduled for hearing. Any ~~pleadings papers~~ in strict reply shall be served no later than ~~12:00~~ noon two judicial days before the date the motion is scheduled for hearing. ~~Parties shall submit working papers to the Ex Parte Department of all pleadings they filed for the hearing. Working papers can be submitted to Ex Parte by following the instructions here: <https://kingcounty.gov/courts/superior-court/exparte-probate.aspx>~~

~~(e-f)~~ **Status Hearing.** At the time of filing ~~*10~~, the court will set a hearing in the Ex Parte Department approximately 60 days after filing. ~~Before the 60-day hearing, the Petitioner must complete and file the 60-day hearing checklist. The form is located here: <https://kingcounty.gov/~media/courts/superior-court/docs/ex-parte-probate/guardianshipforms/UGA%20implementation/60-day-checklist.ashx?la=en>. Parties shall submit working papers to the Ex Parte Department of all pleadings they filed including the 60-day checklist.~~

Commented [PM11]: *10 add here "the petition,"

~~Working papers can be submitted to Ex Parte by following the instructions here: <https://kingcounty.gov/courts/superior-court/exparte-probate.aspx>.~~ The parties shall appear at that hearing to address whether service has been completed on all ~~individuals parties~~ requiring notice, background and CPS checks have been completed, any necessary court visitor, GAL, or attorney has been appointed, and any other issues necessary for the case to move forward. If neither the petitioner nor the proposed guardian appears at the scheduled hearing, the case may be dismissed. The court will determine whether the case is likely to be resolved by agreement, ~~or~~ by default, or should be set for trial. After a determination that a case is contested, the case will be referred to the assigned judge to set a trial date and case schedule. ~~If a case is assigned to a judge for trial, date setting and~~ all motions and other proceedings shall be set before the assigned judge. There is no discovery in guardianship cases until the case is set for trial.

~~(e~~ **g) Petitions and Motions for Emergency Minor Guardianship.**

(1) Petition for Emergency Guardianship. A party may file a Petition for Emergency Guardianship ~~*11~~ if there is no pending Minor Guardianship case and the petitioner ~~*12~~ will not file a Minor Guardianship case. When an Emergency Minor Guardianship Petition (**GDN M 202**) is filed, the clerk will issue a case schedule setting a hearing ~~will be set~~ before the assigned UFC judge on the first Friday that is at least 14 days after filing. ~~Any Motion for Immediate Order, without notice (GDN M 204) shall be heard on the Ex Parte Guardianship Calendar according to the process described on the Ex Parte & Probate Department's website and/or in the Ex Parte manual. The return hearing will be set before the assigned UFC judge on the first Friday that provides at least three calendar days' notice to responding parents.~~ Any motions to extend an Emergency Guardianship order by 60 days ~~or until the Minor Guardianship is concluded~~ shall be set before the assigned judge with 14 days' notice. ~~UFC Judge. Motions to extend an emergency guardianship pending the outcome of a full guardianship, if one has been filed, may be set before the Ex Parte Department~~ ~~*13~~. If the full guardianship has been referred to an assigned judge for trial, all motions to extend any emergency guardianship, must be set before the assigned judge with 14 days' notice.

Commented [PM12]: *11 add "only" *12 strike "will not" and insert "does not intend to"

(2) Motions for Emergency Guardianship. A party may file a Motion for Emergency Guardianship (GDN M 206) at the same time a Minor Guardianship Petition is filed or if a Minor Guardianship case is already pending before the court. Hearings on the Motion for Emergency

Commented [PM13]: *13 Insert link to instructions for ex-parte filing.

Guardianship or to extend an Emergency Minor Guardianship until the Minor Guardianship is concluded shall be set before the assigned judge with 14 days' notice. *14

(3) Motion for Immediate Order (Emergency Guardianship). A party may file a Motion for Immediate Order (Ex Parte) Emergency Minor Guardianship and Restraining Order (GDN M 204) either at the same time as filing a Minor Guardianship Petition or an Emergency Guardianship Petition or after filing either petition*15. The Motion for Immediate Order shall be heard in the Ex Parte Department according to the emergency hearing process described on the Ex Parte & Probate Department's website and/or in the Ex Parte manual. The return hearing will be set before the assigned judge on the first Friday that provides at least three calendar days' notice to responding parents. The moving party shall submit a proposed Immediate Minor Guardianship Order (Ex Parte) and Hearing notice (GDN M 205) with the Motion.

(g #) Petitions for Standby Guardians. Following expiration of the required statutory 60 days, a hearing regarding appointment of a standby guardian may be noted in the Ex Parte Department on the guardianship calendar with at least 14 days' notice.

(h #) Consolidation of Cases. All petitions for guardianship must be filed as separate cases. The court may consolidate all separately filed emergency and standby guardianship petitions into the Minor Guardianship Petition when all petitions are regarding the same child(ren). Petitions for modification of existing Title 11 minor guardianships may be filed within the existing case.

(i #) Motions for Temporary Child Support, Temporary Restraining Orders and to Restrain or Permit Relocation. Motions to set temporary child support, for a temporary restraining order, or to permit or restrain relocation, shall be set before the assigned judge on at least 14 days' notice. Parties may petition the court for temporary restraining orders entered on an emergency basis to prevent immediate injury, loss, or damage. See also CR 65. The moving party shall present the Motion for Ex Parte Restraining Order to the Ex Parte Department according to the emergency hearing process described on the Ex Parte & Probate Department's website and/or in the Ex Parte manual. ~~Guardianship Calendar.~~ The Order to Show Cause shall schedule a return hearing before the assigned UFG judge within 14 days, unless extended for good cause. ~~Note: The statute does not provide for temporary guardianship orders in actions for full guardianship. To obtain an immediate guardianship order or to seek a temporary guardianship order for up to 60 days, you must file an Emergency Minor Guardianship Petition.~~

(j #) Domestic Violence, Anti-Harassment, or other order seeking protection under another defined statute. Any matter related to issuance of a protection order that includes protecting a child subject to any minor guardianship matter shall be filed separately from the Minor Guardianship matter under a new cause of action. The court shall set full protection order hearings before the assigned judge to be heard concurrent with these proceedings.

(k #) Acceptance of Appointment. The guardian name(s) must be typed or printed on the acceptance of appointment as it appears in the order. If a guardian changes their name, they must obtain an order for new letters and file an acceptance of appointment under the new name in order to receive new letters of guardianship. The expiration date of the letters shall remain the same unless changed by the new order.

(l #) Modifications and Terminations. All petitions to modify or terminate an for modification of existing Title 11 Minor Guardianship order or an existing Title 26 Non-Parent Custody order shall be initiated by filing a Petition to Terminate or Change Minor Guardianship or Non-Parent Custody Order (GDN M 502) ~~the GDN M 502 form~~ along with a copy of the custody or guardianship order. All petitions to terminate or change a non-parent custody order

Commented [PM14]: *14 Add: "A motion for Emergency Guardianship is not required in an Emergency Guardianship case or if a Motion for Immediate Order (Ex Parte) Emergency Guardianship is filed."

NOTE: The UGA statute was amended in June 2023 to allow a motion for emergency guardianship in a Minor Guardianship proceeding, without filing a Petition for Emergency Guardianship. If an immediate emergency guardianship is needed, a Motion for Immediate Order (form GDN M 204) may be filed and a separate Motion for Emergency Guardianship is not required. A sentence stating that both the Motion for Immediate Order and a Motion for Emergency Guardianship is required was removed from the proposed local rules. The state form for an Immediate Order (Form 204) states "If you use this form you do not need GDN M 206 *Motion for Emergency Minor Guardianship.*" and "Bring proposed order GDN M 203 *Emergency Minor Guardianship Order* and any other needed orders to the hearing." (to wit: the return hearing before the judge.)

Commented [PM15]: *15 replace with "...in either a Minor Guardianship Petition case or Emergency Guardianship Petition case at the same time or after filing either petition."

Commented [PM16]: *16 Reverse the two sentences and add: "At the return hearing, the moving party shall submit a proposed Emergency Minor Guardianship Order (GDN M 203)."

~~shall order proposed to be filed under a new cause number. The clerk will modified. If the petition is to modify a Title 26 nonparental custody order, the clerk shall issue a new Title 11 cause number for all Petitions to Modify or Terminate a Title 26 Nonparental Custody Order. Petitions case number. If the petition is to modify or terminate an existing King County Title 11 Minor Guardianship, the petition to modify granted by this court shall be filed under the existing cause number. All hearings in modification and termination matters are heard by the assigned judge. case number.~~

(m) Non-Parent Custody Post-Order Motions. A party who needs to file a motion related to a Non-Parent Custody Order must file a Petition to Assign a Title 11 Cause Number under a Minor Guardianship Conversion cause of action. This form is available on the clerk's website*17. A copy of the Non-Parent Custody order must be attached to the Petition. Upon the filing of the complete Petition, the clerk will assign a Title 11 cause number. Any motion must then be filed in the new Title 11 cause number and will be heard in the Ex Parte Department, or if a judge has been assigned, by the assigned judge.

Commented [PM17]: *17 insert link

LJuCR 1.1 SCOPE OF RULES

The current procedures for cases in King County Superior Court Juvenile Division are contained in two manuals: the Juvenile Division Offender Manual and the Dependency and