

Snohomish County Superior Court
Local Court Rule Change
Effective as Emergent January 1, 2021

PART V. SPECIAL PROCEEDINGS RULES
SCLSPR

RULE 98.16 ESTATES-GUARDIANSHIPS-SETTLEMENT OF CLAIMS OF MINORS

(e) Guardianship of Minor.

(1) *Finalization or Conversion and Consolidation of Cases Filed Pursuant to RCW 26.10.* Effective January 1, 2021, no new action pursuant to RCW 26.10 may be filed with the Court. As of the effective date of the repeal of RCW 26.10, no action shall be taken to modify, adjust, enforce, or otherwise affect orders in any Non-Parent Custody action filed pursuant to RCW 26.10, unless the matter has been converted to an action under the Uniform Guardianship Act, RCW 11.130, and the cases consolidated under the Guardianship cause number.

a. *Motions to convert pending RCW 26.10 cases.* All cases in which final orders have not been entered, including those on inactive status, must have final orders entered prior to the effective date of the repeal of RCW 26.10 or be converted to a Minor Guardianship Custody action using the form prescribed by the Court.

(i) *Who may file.* A motion to convert a pending case may be filed by the Petitioner only, unless one or more of the following situations apply:

1. The effective date of the repeal of RCW 26.10 has passed; or
2. All parties are in agreement with the conversion and have joined in the motion; or
3. The matter has been set for trial, and that trial is set after the effective date of the repeal of RCW 26.10; or

4. One or more respondents demonstrates, by facts set forth in a sworn declaration or affidavit, and supported by sufficient evidence in the record, that it is unlikely that the action will be finalized by the effective date of the repeal of RCW 26.10, even though the parties are demonstrating good faith efforts to finalize their case.
 - (ii) *Deadline for conversion.* Any pending Non-Parent Custody action not finalized or converted to a Minor Guardianship Action by the effective date of the repeal, or June 30, 2021, whichever is later shall be dismissed.
 - (iii) *Manner and Place of Hearing.* Motions to convert pending cases may be noted for a hearing at 8:30am on any Friday between January 8, 2021 and June 25, 2021 on the Motions to Convert NPC Calendar. The motion and notice of the hearing shall be on the Notice of Hearing and Motion for Order to Convert Pending Non-Parent Custody Case to Minor Guardianship, Consolidate the Cases, and Grant Leave to File an Amended Petition form prescribed by the court. The motion and a proposed order shall be provided as a working copy at the time the motion is filed or the hearing shall be stricken. The hearing will be conducted on the pleadings provided, and the Court will review the court file to determine the status of the case and ensure notice was adequately provided to all parties requiring notice.
 - (iv) *Amended Petition Required.* A Minor Guardianship Petition shall be presented as a working copy with every Motion to Convert, Consolidate, and Amend. If the pending Non-Parent Custody action includes more than two legal parents, a Petition shall be filed for each set of legal parents as set forth in SCLSPR 98.16(e)(2)(A).
 - (v) *Service of Documents after Conversion.* If the Court grants the Motion to Convert and Consolidate, the Petitioner shall serve the amended petition, a summons, and a copy of the Order on Motion to Convert and Consolidate shall be served on all persons entitled to notice under RCW 11.130.195 by the Petitioner no later than 14 days after the Order has been granted.
- b. *Motions to convert final RCW 26.10 cases.* A motion to convert shall be made by filing a Notice of Hearing and Motion to Convert

and Consolidate in the form prescribed by the Court and available on the Court's Website. No later than fourteen days after the order has been granted, the Petitioner shall serve a copy of the Order on Motion to Convert and Consolidate on all persons entitled to notice under RCW 11.130.195.

c. *Conversion of Cases with Multiple Minors and More Than Two Legal Parents.*

(i) In the event that an existing non-parental custody action has multiple minors who do not all have the same legal parents, the clerk's office will create a new action for each minor or minors who share the same legal parents.

(2) *Filing.* A cause of action for the appointment of a guardian, standby guardian, or emergency guardian for a minor shall be commenced by the filing of a summons, petition, and supplemental declaration. The petitioner shall also file a coversheet for a judicial information system background check, which may be run by the Court at any point during the pendency of the action, including, but not limited to, the 60 day review hearing, and prior to the appointment of a guardian. The background check coversheet shall contain the requested information for each petitioner, each proposed guardian, and each person over the age of 18 who resides in the home of any petitioner or any proposed guardian.

a. *Actions Involving Multiple Children.* A Minor Guardianship may have multiple minors named as respondents so long as those minors have the same legal parents. If there are more than two legal parents, a separate action must be filed for each set of legal parents.

(3) *Child Abuse and Neglect Check.* No later than 14 days after the filing of the action, the petitioner shall seek and obtain an order directing the department of children, youth, and families to release information as provided under RCW 13.50.100. The order shall direct the release of any and all child abuse and neglect information about each petitioner, each proposed guardian, and each person of the age 18 who resides in the home of the petitioner or proposed guardian.

(4) *Washington State Patrol Criminal Identification Information.* No later than 14 days after the filing of the action, the petitioner shall file, and serve on all persons entitled to notice under RCW 11.130.195, the results of the Washington State patrol examination required by RCW 11.130.210.

(5) *Mandatory Forms.* In the event a statewide pattern guardianship form exists, those forms shall be used. If no state-wide form exists, then the

Snohomish County Minor Guardianship forms shall be used. Both the mandatory and statewide pattern guardianship forms can be obtained on Snohomish County Superior Court's website:

<https://snohomishcountywa.gov/5523/Snohomish-County-Superior-Court-Forms>. These forms are subject to future updates, corrections, amendments, or other alterations. Notice of these changes may be placed on the Snohomish County Superior Court's website or on the Washington Courts website.

(6) *Trial and Hearings; Where Heard; Case Schedule.*

a. *Petition for Minor Guardianship or Standby Minor Guardianship.*

All pre-trial hearings, except those permitted to be heard in the ex parte department, or as otherwise set forth in these rules will be heard on the Minor Guardianship Calendar on Wednesdays at 10:00am in Courtroom 1E.

b. *Case Schedule.* When an action is commenced under RCW 11.130.190 or .220, the case will be assigned a review hearing and a court confirmed trial date. The case schedule must be served, together with the summons, petition, and supplemental declaration, on each person entitled to notice pursuant to RCW 11.130.195(a)(i)-(iv). If service of the summons, petition, and supplemental declaration occurs prior to the issuance of this case schedule, then the case schedule must be served within five (5) court days after the case is filed. Failure to follow the case schedule may result in monetary sanctions, dismissal of the case, or other action deemed necessary by the court.

(i) Review Hearing. A court-confirmed review hearing shall be set for the first available Minor Guardianship Calendar that falls 60 days from the date of filing. At the review hearing, the Court will consider whether an appointment of a guardian ad litem, court visitor attorney for minor, or attorney for a parent should be made, will inquire as to the applicability of the Indian Child Welfare Act and the status of any required notice, and will issue such orders as it deems necessary. Motions or objections to any appointments to be considered at this hearing shall be filed and served on all parties at least five (5) court days prior to the hearing. At the review hearing, the Court will also consider any other timely filed motions, including a motion for default.

(ii) Trial. A court confirmed trial date will be set on the first Tuesday, Wednesday, or Thursday that is 180 days from

the date of filing. If the 180th day is a Monday, Friday, weekend, or court holiday, then the hearing will be set for the next available court day Tuesday through Thursday.

c. *Petition for Appointment of Emergency Guardian.*

(i) Petitions for appointment of an emergency guardian shall be heard on the Minor Guardianship calendar. Petitions requesting appointment without notice to the other party will be heard in the ex parte department. Petitions must include, or be accompanied by, an affidavit setting forth a factual basis for allegations contained in the petition.

(ii) When the Court receives a Petition for Appointment of Emergency Guardian without notice, the Court may:

1. Appoint a guardian without notice, as requested in the Petition, and schedule a hearing on the appropriateness of the appointment, to be heard within five court days. If the next Minor Guardianship Calendar is not within five court days of the appointment, the appropriateness hearing shall be set for the next Monday, at 10:30am in Courtroom 1B;
2. Deny the appointment without notice and set a hearing on the next Minor Guardianship Calendar; or
3. Deny the Petition for Appointment of Emergency Guardian.

(iii) When the Court appoints an Emergency Guardian after a hearing for which all parties have received notice, it may set a renewal hearing on the Minor Guardianship Calendar, at which hearing the Court will determine whether the emergency guardian's authority will be extended for an additional 60 days, or longer, pending the outcome of a full hearing if a Minor Guardianship Custody action is also pending.

d. *Ex Parte; Working Copies Required.* All guardianship matters that are not contested, and in which notice is not required by statute, rule, or a duly filed request for notice under applicable statutes, or where such notice has been waived, may be heard ex parte. It shall be the responsibility of the presenting party to submit to the court working copies of any pleadings or other documents or proof on which the requested action is based.

(7) Service. Service of the pleadings identified in SCLSPR 98.16(e)(2) shall be made in accordance with RCW 11.130.220(5)(a). If, 90 days after

filing the petition, the court file does not contain valid proof of service on, or joinder or response by at least one notice party, the case may be dismissed by the Court on its own motion without further notice to the parties, or the Court may take other action as it deems appropriate.

- a. *When Personal Service Cannot be Made.* The Court may order that service be made by alternative service pursuant to CR 4(d) and RCW 4.28.100, after receipt of a motion for alternative service in the form prescribed by the Court. Such motion may be presented ex parte.

(8) *Appointment of Attorney for Minor.* If the Court determines that an attorney should be appointed for a minor, the Court will enter an order directing the Snohomish County Office of Public Defense to appoint the next available attorney, and direct the minor or Petitioner to take a copy of the order of appointment to OPD for processing.

(9) *Appointment of Attorney for Parent.*

- a. A parent who is entitled to the appointment of an attorney pursuant to RCW 11.130.200(5)(a),(b), and (c)(i) may contact the Snohomish County Office of Public Defense to request and screen for the appointment of counsel at any time after receiving the summons and petition, or becoming aware that an action has been filed. Prior to the appointment of counsel, a parent will be required to complete and file the Notice of Appearance, Objection to Appointment of Guardian, and Request for Attorney on the form prescribed by the Court, and shall present a conformed copy to the Office of Public Defense.
- b. If a parent appears at any proceeding and has not been appointed counsel, the court shall inquire as to the indigency status of the parent and determine whether an attorney should be appointed under RCW 11.130.200(5)(c)(i)-(iii). A parent may be required to complete a financial declaration or other form at the direction of the Court. If the Court determines that an attorney should be appointed, the Court will enter an order directing the Snohomish County Office of Public Defense to appoint the next available attorney and the parent will be directed to take a copy of the order of appointment to the Office of Public Defense for processing.

(10) *Appointment of Guardian ad Litem or Court Visitor; Registry.* Guardians ad Litem and Court Visitors appointed pursuant to RCW 11.130 shall be appointed from a registry maintained by the Court, in a system of consistent rotation. If a party believes that there is a need for particular expertise, or there is a conflict of interest with one of the members of

the registry, that information shall be set forth in a declaration and provided to the Court and all parties prior to any hearing at which a Guardian ad Litem or Court Visitor is requested or appointed. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

- a. *Review Hearing.* When appointing a Guardian ad Litem or Court Visitor, the court may set a 60-day review hearing to review issues identified in a GAL or Court Visitor Report and confirm the feasibility of the trial date.
 - b. *Supplemental Order.* When appointing a Guardian ad Litem or Court Visitor, the Court may also enter a Supplemental Order Appointing Guardian ad Litem or Court Visitor, setting deadlines for the completion of certain documents and a due date for the report.
 - c. *Application of Rules.* All statutes, state or local rules, administrative or emergency orders, or other regulations that regulate the actions of a Title 11 guardian ad litem, including procedures related to the management of grievances, shall also apply to any Guardian ad Litem or Court Visitor appointed pursuant to RCW 11.130.
- (11) *Background Check.* The Court will review the results of the Background Check at the 60-day review hearing and before entering any initial or final order pursuant to RCW 11.130, or at any other time the Court believes a review to be appropriate. The Court may decline to enter final orders in the event a background check is more than 14 days old.
- (12) *Alternative Dispute Resolution.* Local rules regarding mandatory alternative dispute resolution do not apply to Minor Guardianship Custody cases.
- (13) *Motions for Orders for Restraint or Protection.* Any party may request relief under RCW 26.50, 10.14 or other statute governing orders for protection or restraint under another defined statute. Initial petitions shall be heard in the ex parte department. All further hearings shall be heard on the guardianship calendar, concurrently with the guardianship action. All documents filed in the related action for protection or restraint shall be served on all persons entitled to notice pursuant to RCW 11.130.195(1)(a).
- (14) *Motions for Orders for Child Support.* All proceedings to establish or enforce child support under RCW 11.130.255 or .257, except those proceedings initiated by the State of Washington, shall be heard on the Minor Guardianship calendar or other calendar designated by the Commissioner, or by the Judge following trial. Actions initiated or

enforced by the State of Washington may be heard on the State's support calendars.

[Amended effective emergent January 1, 2021]