

Superior Court

Notice to the Bar and Public

June 1, 2022

ATTENTION Law Offices Personnel: Please assure **ALL** staff, attorneys and, non-attorneys are aware of the contents of this notice.

LOCAL COURT RULES OUT FOR COMMENT

The proposed Whatcom County Superior Court Local Rules to become effective September 1, 2022 are posted on the Whatcom County Superior Court Website.

<https://www.co.whatcom.wa.us/413/Superior-Court>

The Superior Court Judges will host several stakeholder meetings (TBD) , however, counsel may send comment to Superior Court Director David Reynolds at Dreynold@co.whatcom.wa.us

June 30th is the final day for comment.



Whatcom County Superior Court Local Rules

Effective September 1, 2022

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SUPERIOR COURT LOCAL RULES

Notice: Court’s Administrative Orders

The Court’s Local Rules are subject to several Administrative Orders issued by the Court in response to public health considerations related to the COVID19 pandemic. The Court’s Administrative Orders remain in effect until further Order of the Court and will override any contrary provisions in these Local Rules. The Court’s Administrative Orders are available at <http://www.whatcomcounty.us/3437/Covid-19-Administrative-Orders>.

Administrative Rules

(Cite as WCAR)

WCAR 0.1	Purpose and Citation
WCAR 0.2	Definitions
WCAR 0.3	Organization of the Court
WCAR 0.4	Suspension of Rules
WCAR 0.5	Unsuitable Materials as Exhibits

WCAR 0.1

Purpose and Citation

(a) **Purpose.** Procedure in the Superior Court of the State of Washington for Whatcom County shall comply with Washington statutes, Rules of Court and these rules.

(b) **Citation.** These rules are collectively referred to as "Whatcom County Superior Court Local Rules" or "WCLR". Individual rules are known and cited as "WCAR 0.2", "WCCR 54", etc.

[Effective 6/1/91]

WCAR 0.2

Definitions

A rule applying to an "attorney," "counsel" or "lawyer" shall equally apply to a party pro

se. Except where otherwise required by law or court rule, the terms "judge" and "Court" include commissioners. The term "clerk" includes deputies and other employees authorized to act on behalf of the Clerk of the Superior Court.
[Effective 6/1/91]

WCAR 0.3
Organization of the Court

(a) The Superior Court of the State of Washington for Whatcom County is organized into four judges' departments, Departments One, Two, Three, and Four. Three constitutional court commissioners, a statutory commissioner who serves as the family court commissioner, a mental health commissioner and commissioners pro tempore also conduct business of the court.

(b) The judges shall from time to time designate a Presiding Judge who shall also act as Special Inquiry Judge, unless a different judge is designated.

(c) The Presiding Judge shall assign the duties and trial responsibilities of each department and the commissioners.

(d) Court commissioners shall have authority in all matters allowed by the Constitution of the State of Washington, case law and statutes, including, but not limited to, the authority noted in RCW 2.24.040 to accept guilty pleas. The statutory commissioner(s) shall have authority as defined by applicable statutes and ordinances.

[Revised 9/1/17, revised 9/1/22]

WCAR 0.4
Suspension of Rules

The court may modify or suspend any WCLR for good cause or upon the court's own motion in order to prevent the failure of justice.

[Effective 6/1/91]

WCAR 0.5
Unsuitable Materials as Exhibits

Whenever there is presented to the clerk for filing in a cause any paper or other material that is deemed by the clerk to be improper or inappropriate for filing, the clerk shall mark the exhibit for the file and may forthwith orally apply to the court for a determination of the propriety of filing the material presented. If the court determines that the paper or material should not be made a part of the file, an order shall be entered to that effect and the clerk shall retain the materials as an exhibit in the cause. The court may order that the unsuitable material be sealed, in which event it shall be available for inspection only to the court, the parties or their attorneys of record or by order of the court.

In appeals from administrative hearings, records of the administrative proceedings and exhibits attached to those records are presumed, upon designation by a party, to be exhibits in the Superior Court file.

[Effective 9/1/17, revised 9/1/22]

General Rules
(Cite as WCGR)

WCGR 16

Recording Court Proceedings

No proceedings of the Court, including remote or telephonic proceedings, may be recorded, by any means, unless the judicial officer conducting the proceedings has authorized the recording. All recordings must be conducted as provided in General Rule 16 of the Washington Court Rules.

[Effective 9/1/20]

WCGR 19

Remote Appearances/Virtual Courtrooms

(1) **“Remote Appearance”** means a video or audio appearance in which all participants can simultaneously hear and speak (when authorized by the Court). Remote appearances shall be deemed held in open court when in the presence of all other participants.

(2) **Standards for Remote Appearance Proceedings.**

(a) **Decorum.** All participants are expected to follow court orders, court rules, and policies on appropriate courtroom decorum during remote appearances. The Court retains discretion to remove any participant for failure to follow court orders, including decorum and appearance. Attorneys and all parties representing themselves (pro se) must wear appropriate professional attire when appearing remotely with shoulders and head fully visible in the video frame.

(b) **Video Appearances.** Audio and video should be of sufficient quality to ensure that the audio and video connections are clear and intelligible such that all court participants can hear and see every other court participant.

(c) **Telephonic/Audio Appearances.** By prior request, the Court may allow a participant to appear remotely with only an audio connection. Connections should be of sufficient quality to ensure that telephonic/audio participants are intelligible such that all court participants can hear every other court participant.

(d) **Court record.** All remote appearances must be of sufficient quality in order for the Court to ensure a record is made. The Court, may, at its discretion, order that parties appear in person in the courtroom if either the audio or the video connection is insufficient.

(e) **Court Interpreter.** In interpreted proceedings, the proceeding must be conducted to assure that the interpreter can hear all participants.

(f) **Public Participation.** When the public appears remotely, members of the public are encouraged not to enable their video in order to facilitate improved audio connections. All parties appearing remotely shall keep their microphone on mute unless specifically addressing the Court. All remote appearances, if authorized by the Court, court rule or policy shall be open to the public, and the public shall be able to simultaneously hear all participants and speak as permitted by the Court.

WCGR 31
Personal Identifiers – Children

(1) **Complete names of children, sealed case types:** The complete names of children shall be used in cases that are deemed confidential pursuant to state or federal statutes, including cases filed pursuant to Title 13 RCW (excluding offender cases); Chapter 4.24 RCW, Chapter 26.33 (Adoption) and Chapter 71.34 (Mental Health Services for Minors).

(2) **Confidential Information Form:** The complete names of children and other identifiers shall be included in the Confidential Information Form or similar document for cases filed under Title 26.

(3) **Domestic Relations Orders:** Court orders concerning the financial support or the custody or residential schedule of a child (including temporary and permanent parenting plans and similar documents) and orders establishing or disestablishing paternity shall include the full name of the child. The date of birth of a child shall be included in court records only as authorized by GR 22.

(4) **Child who is alleged to be a victim of a crime:** The complete name of a child who is alleged to be a victim of a crime may be included on subpoenas and in jury instructions. Nothing in this rule requires that subpoenas be routinely filed in the court file.

(5) **Child who is charged with a crime:** The complete name of a child charged with a crime shall be included in any indictment or information filed with the court pursuant to CrR 2.1 or JuCR 7.2, as part of an affidavit or declaration of probable cause or for any other purpose deemed necessary for the prosecution or defense of the criminal or juvenile offender matter. Juvenile offenders shall be referred to using the term “respondent.”

(6) **Orders issued for the protection of or restricting access to a child:** If a child is a person protected by a criminal no contact order issued pursuant to 10.99 RCW, an antiharassment order issued pursuant to 10.14 RCW, an order of protection under issued pursuant to 26.50 RCW; a restraining order or order of protection issued pursuant to 26.09 RCW, 26.10 RCW, 26.26 RCW, RCW 26.52.020, or any other court order entered for the protection of the child, the child’s full name and other identifiers shall be included on petitions and orders as necessary for entry of the order into the Judicial Information System (JIS) and/or the Washington Crime Information Center (WACIC). If access to a child is restricted pursuant to CrR 3.2(d) (1), the court may include the full name of the child on the order, if deemed necessary for effective enforcement of the order.

(7) **Orders restraining child from contacting or harassing others:** Whenever a child is named as a respondent in an order listed in (3) above, the child’s full name and other personal identifiers shall be included on the petition and order as necessary for entry of the order in the Judicial Information System (JIS) and/or the Washington Crime Information Center (WACIC).

(8) **General authority:** Nothing in this rule shall prohibit a court from authorizing or prohibiting the use of a child’s full name or date of birth when necessary for the safety of the child or for the orderly administration of justice, consistent with the requirements of GR 22.

[Effective 9/1/17, Revised 9/1/22]

Civil Rules

(Cite as WCCR)

WCCR 4	Order for Service of Summons by Publication
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WCCR 7.2	Necessary Provisions for Civil Bench Warrant, Non-Domestic Relations
WCCR 7.3	Motion for Order Shortening Time
WCCR 10.1	Documentary Exhibits
WCCR 10.2	Pleading Requirements
WCCR 10.3	Page Limits
WCCR 17	Unlawful Detainer/Eviction
WCCR 26	Filing of Discovery Materials
WCCR 38	Notice of Jury Waiver
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WCCR 77.2	Court Calendar Schedule Pre-Arranged Settings, Motion Calendar Procedures, Confirmation
WCCR 78	Furnishing Envelope to Clerk

WCCR 4

Order for Service of Summons by Publication

A party must obtain an Order for Service of Summons by Publication in any case where that party serves summons by publication. The party shall file a Declaration for Service by Publication, which shows that the requirements of RCW 4.28.100 have been satisfied and shows specific facts delineating the attempts that were made to locate the other party.
[Effective 9/1/93]

WCCR 7.1

Reapplication for an Order

An order refused in whole or in part (or granted conditionally and the condition has not been performed) shall not be presented to a different judge or commissioner unless authorized by the judge or commissioner who refused or conditionally granted the order and with notice to the second judge or commissioner of the earlier presentation.
[Effective 6/1/91]

WCCR 7.2

Necessary Provisions for Civil Bench Warrant, Non-Domestic Relations Cases

No civil bench warrant for failure to appear shall issue without an affidavit by the attorney for the moving party stating that the order requiring attendance:

(a) contained the following caption:

) NO.
) ORDER REQUIRING ATTENDANCE
) OF PARTY IN COURT

(b) contained the following notice:

YOUR FAILURE TO APPEAR AT THE TIME, DATE, AND PLACE REQUIRED MAY CAUSE THIS COURT TO ISSUE A BENCH WARRANT FOR YOUR APPREHENSION AND CONFINEMENT IN JAIL UNTIL SUCH TIME AS THIS MATTER CAN BE HEARD AND/OR UNTIL BAIL IS POSTED. THE RELIEF REQUESTED IN THE MOTION MAY ALSO BE GRANTED.

(c) Was personally served on the date specified in the affidavit;

d) States the time required by law to lapse between service and granting of relief;

(e) States that such time has in fact lapsed.

[Effective 9/1/17]

WCCR 7.3 Motion for Order Shortening Time

The time for notice and hearing of a motion may be shortened only for good cause upon written application to the Court in conformance with this rule.

Absent good cause shown, the motion shortening time must be presented to the judicial officer who will hear the underlying matter prior to the hearing time on the merits of the motion for which shortened time is sought. A motion, declaration, and order may be emailed to the assigned judge's judicial assistant.

As soon as the moving party is aware that they will be seeking an order shortening time, that party must contact the opposing party to give notice in the form most likely to result in actual notice of the pending motion to shorten time. The declaration in support of the motion must indicate what efforts have been made to notify the other side.

The Court may deny or grant the motion and impose such conditions as the Court deems reasonable.

The Court may impose terms, including an award of attorney fees, where the Court later finds there was insufficient need for shortening time.

[Adopted 9/1/18; Revised 9/1/19, 9/1/22]

WCCR 10.1 Exhibits

(1) Documentary Exhibits

- (a) When a documentary exhibit is used at any evidentiary hearing or at trial, and reference to the contents of the exhibit is necessary to understand the issues, the attorney or party presenting the exhibit shall provide extra copies of the exhibit for opposing counsel and the Court.
- (b) Documentary exhibits shall be single-sided and printed on 8.5 by 11 inch paper. Absent prior leave of Court, larger exhibits shall be reduced to an 8.5 by 11 inch format prior to marking and presentation.

(2) Digital Exhibits

- (a) Audio and video recordings may be submitted as digital exhibits with prior approval of the Court. The party offering a digital exhibit must present to the Court in advance of the hearing or trial, a suitable plan for displaying the exhibit. If the Court does not approve such a plan prior to the hearing or trial, the Court may deny admission of the exhibit.
- (b) Absent prior Court approval, still images or other documents will not be admissible in digital form. Such exhibits should be printed and presented as set forth in WCCR 10.1 (1) above.

[Effective 9/1/17, Revised 9/1/22]

WCCR 10.2 Pleading, Motions, and Orders Requirements

The provisions of CR 10 shall apply. Additionally, the following are required:

(a) Letter-size paper (8.5 by 11 inches) is required, printed on one side only. There shall be a three-inch margin at the top of the first page of each pleading, and no writing or typed words shall be placed anywhere in the three-inch margin. Any pleading requiring something to be done by the clerk shall state "Clerk's Action Required" in the case caption under the title of the pleading.

(b) All pleadings, motions, and orders shall bear the signature and bar association membership number of the attorney presenting the order or other paper, and shall identify the party or parties represented by the attorney. In the event that an attorney represents some but not all of the petitioners/plaintiffs or the respondents/defendants, the signature block shall bear the names of only those parties represented by the attorney.

(c) In the event that an attorney or party is appearing remotely, and if the record supports accurate advisement and assent, the term "approval" may be placed upon the signature line of such person in lieu of a signature.

(d) Motions, and the orders granting the relief requested in the motions, shall be

separate documents. For motions and orders made under multiple cause numbers, the parties must submit an original motion and order for each cause number. The clerk's office will not provide copies for motions and orders made in multiple cases.

(e) Titles of pleadings, orders, and other papers shall be specific. In cases with multiple parties, titles shall include the names of the parties filing such documents.

(f) Orders of default against unnamed "J. Doe" spouses may be entered. Judgments against unnamed spouses will not be entered unless the evidence in the record indicates reasonable grounds to believe that the defaulting party is married and that reasonable efforts were made to obtain the complete name of, and service upon, the otherwise unnamed spouse.

(g) A party appearing unrepresented ("pro se") shall state on court papers filed by him or her, the telephone number, mailing address, and street address where service of process may be made upon such pro se party.

(h) No party may file separately or as an attachment or exhibit to a new document a document already filed as part of the court record. New pleadings should refer to already-filed documents when appropriate, including in the reference the date of the referenced filing or the name and date of the referenced pleading to which it was attached.

(i) In accordance with GR 17, if a document is transmitted to another for filing with the Court, whether by facsimile or email, the person responsible for the filing is required to attach an original affidavit as the last page of the document. The affidavit must bear the name of the court, case caption, case number, the name of the document to be filed, and a statement that the individual signing the affidavit has examined the document, determined that it consists of a stated number of pages including the affidavit page, and that it is complete and legible. The affidavit shall bear the original signature, the printed name, address, and phone number of the individual who received the document for filing.

(j) Bench Copies: For any pleading, motion, or proposed order that is noted for consideration by the Court, "bench copies" shall be provided at the time of filing. Bench copies may be provided in hard or electronic form at the discretion of the judge. To the extent feasible, bench copies of proposed orders shall additionally be submitted in "Word" version or similar software that allows for future editing by the court.
[Effective 9/1/17; Revised 9/1/19, 9/1/22]

WCCR 10.3 Page Limits

(a) Motion. Absent prior authorization from the court, no individual document, whether titled as a motion, declaration, affidavit, memorandum or brief, shall exceed fifteen (15) pages, not including exhibits thereto. All such documents shall be double-spaced and typed in a font no smaller than 12 point.

(b) Response to Motion. Absent prior authorization from the court, no response to any motion, declaration, affidavit, memorandum or brief shall exceed fifteen (15) pages, not including exhibits thereto. No response may include a document or pleading already filed as part of the court record [WCCR 10.2(g)], but instead shall cite to the relevant portion of the pertinent document. All such responses shall be double-spaced and typed in a font no smaller than 12 point.

(c) Reply to Response. Absent prior authorization from the court, no reply to a response to motion, declaration, affidavit, memorandum or brief shall exceed five (5) pages, not including exhibits thereto. No reply may include a document or pleading already filed as part of the court record, but instead shall cite to the relevant portion of the pertinent document. All such Replies shall be double-spaced and typed in a font no smaller than 12 point.

(d) Family Law Declarations. Declarations or affidavits in family law cases (whether initial, responsive, or reply declarations or affidavits) are limited to a combined total of fifteen (15) pages per party and no single declaration or affidavit may exceed five (5) pages.

(e) Exhibits to Motions, Declarations, etc. Absent prior authorization from the court, all declarations or affidavits of parties or any non-expert witnesses in support of a motion, response, or reply shall count towards the fifteen-page limit. Exhibits shall be referenced in the declaration or affidavit, indicating the purpose for attaching them. Copies of email, text, or other electronic communication attached as exhibits shall indicate the name of the sender and date sent. Exhibits consisting of multiple pages shall be numbered. No portion of this rule shall be construed to permit multiple motions to be noted for the same day to avoid the page limit.

(f) Financial Declarations. Financial Declarations and financial documents in family law cases do not count toward the page limit.

(g) Experts, Reports and Evaluations. Declarations, affidavits, and reports from guardians ad litem, child protective services, law enforcement, parenting evaluators, substance abuse evaluations, psychological evaluations, and other expert witnesses in family law cases do not count toward the page limit but should be properly authenticated and filed as separate documents, under seal if required.

(h) Previously filed documents. Any document already filed as part of the court record is subject to the provisions of WCCR 10.2(g).

(i) Miscellaneous Exceptions. Deposition excerpts must be cited to by page and line number. They do not count toward the page limit.

(j) Failure to Comply with Page Limits. If one or more parties violate the page limits set out above, the court may strike the pleadings, refuse to consider portions of the materials in violation, strike or continue the hearing and/or impose sanctions.

(k) Overlength Briefs: A party shall note for hearing any motion to file an overlength brief and include a declaration supporting why pages in excess of the requirements of this rule are necessary. Leave of court is required before the overlength brief may be filed.

[Revised 7/1/09 and 9/1/17, 9/1/22]

WCCR 17 Unlawful Detainer/Eviction

Complaints for unlawful detainer, money judgments, and other orders in unlawful detainer Cases, including writs of restitution, will be granted only under the following conditions:

- (a) Owners or lessors of real property, or any person properly designated as their representative, may properly be a plaintiff in unlawful detainer actions. Plaintiffs who

are individual people may represent themselves if they choose not to be represented by a lawyer. Institutional plaintiffs (corporations, limited liability corporations and partnerships) must be represented by an attorney licensed in Washington.

- (b) All complaints for unlawful detainer must include the following:
- (1) A copy of the rental agreement shall be filed with the complaint.
 - (2) Plaintiff owners of the real property must state ownership in their complaint.
 - (3) Plaintiff lessors and sublessors must state their status as lessor or sublessor in their complaint.
 - (4) Representatives of property owners, including property managers, must state their status as representative in the complaint and must file with the complaint a copy of their written designation as representative.
 - (5) If the action is brought under the Residential Landlord Tenant Act and is based upon any reason other than exclusively nonpayment of rent, the plaintiff shall specifically plead the just cause exception under RCW 59.18 et. Seq. to ending a residential tenancy and shall state with specificity the facts supporting such exception.
- (c) The Court may order a writ of restitution to a property owner, lessor, sublessor, or representative of the property owner. A plaintiff seeking a writ of restitution must schedule a Show Cause Hearing on the issuance of the writ, with proper notice to the defendant of the hearing in accordance with WCCR 77.2(d), and notice that failure to attend may result in a default judgment and writ of restitution. Notice of the hearing must be by an Order to Show Cause, which may be served with the Summons and Complaint or at any time thereafter. The Court will not issue an order of default, or an Order for Writ of Restitution, until the hearing has occurred. A properly served defendant's failure to appear at the hearing will be treated as default. Any motion to stay enforcement of the writ under RCW 59.18.410(3)(a) shall include proper service on the non-moving parties.
- (d) The court will grant a money judgment only when:
- (1) The plaintiff is the owner of the real property, or
 - (2) The plaintiff is a lessor or sublessor and the rental agreement requires payments to be made directly to the lessor or sublessor, or
 - (3) The plaintiff is a representative of the owner, the rental agreement requires payments to be made directly to the representative, and the appointment of the representative filed with the complaint authorizes the representative to collect judgments in their individual capacity.

[Effective 9/1/06; Revised 9/1/19]

WCCR 26

Filing of Discovery Materials

Interrogatories, requests for production or inspection, requests for admissions, and the responses thereto shall not be filed with the court or clerk until required to support an application to the court for relief. The originals of such documents, including answers, shall be maintained by the issuing attorney for production at trial.

[Effective 6/1/91]

WCCR 38

Notice of Jury Waiver

When a jury is waived after being demanded, notice shall be immediately given to the judicial assistant of the assigned judge. Upon violation of this rule, the court may in its discretion assess full costs. A jury demand fee once paid will not be refunded.

[Effective 9/1/17]

WCCR 40.1

Trial Settings

- (a) **Note for Trial Setting.** An attorney or party who wishes to schedule a trial must serve and file a Note for Trial Setting form, at least five (5) days in advance of the Trial Setting and in accordance with CR6, noting the matter for an informal trial setting with the assigned judge's judicial assistant. The noting pleadings must include:
- (1) The title of the court, clerk's file number, assigned judge or department, and the words "Note for Trial Setting."
 - (2) Names and addresses of the all parties' attorneys. For unrepresented ("pro se") parties, name and address of the party.
 - (3) The nature of the cause, whether to be tried to a jury or to the court, and the filing attorney's best estimate of the time required for trial.
 - (4) The attorney's or party's certification that all issues have been joined, and that all named parties' responsive pleadings have been filed or that proper defaults have been taken.
 - (5) A statement that all discovery has been completed, or that the parties have filed (or are filing concurrently) an Agreed Discovery Scheduling Order specifying the schedule on which discovery is to be completed and requiring that all discovery be completed at least thirty days before the trial date. A party who seeks a trial date but who cannot satisfy either of the requirements contained herein must note the case for a scheduling conference with the assigned judge on their Civil Motions Calendar.
 - (6) Use of local forms for an Order Setting Trial Date and Discovery Scheduling Order are strongly encouraged and are available on the court's webpage under Court Calendars, Trial Calendar Information.
- (b) **Trial Setting Calendars.** Refer to Appendix A online: Court Calendar Schedule. Trial setting calendars occur every Friday, except holidays. The Domestic Trial Setting Calendar, including Minor Guardianships, occurs at 11:00 a.m. and the Civil Trial Setting Calendar at 1:00 p.m. Trial settings for cases on which attorneys and parties are not

able to agree to trial or settlement conference dates will be determined by the assigned judge at the 1:30 Civil Motions Calendar that same Friday.

(c) **Procedure Before Trial Setting Calendar.** Trial settings noted on a Friday Trial Setting Calendar must be confirmed with the assigned judge's judicial assistant no later than noon on Wednesday for that Friday's calendar. Attorneys may file Notices of Conflicts but are not required to do so. In preparation for the Trial Setting Calendar, the parties may consult the Court's online calendar at www.whatcomcounty.us/1733/Trial-Calendar-Information to determine potentially agreeable trial dates. When a party confirms a trial setting, it should be done by email including all parties to the case. At that time, the assigned judge's judicial assistant will attempt to set dates by email agreement.

(d) **The Trial Setting.** If the parties are not able to set dates by email agreement as described above, at least one attorney or unrepresented "pro se" party must attend the Trial Setting Calendar and submit a signed original Order Setting Trial Date, preferably using the Court's local form available on our website. Non-lawyer staff may do this as long as the attorney has signed the original Order. A properly noted and served party who does not attend the Trial Setting will be held to the trial date set.

(e) **Factors Affecting Trial Assignments.** When noting civil matters for trial, parties should consider the following:

- (1) The Court's civil trial calendar is updated weekly and posted online at www.whatcomcounty.us/superior, "Trial Calendar Information."
- (2) Civil trials are generally set to begin the second day of the court work week.
- (3) One day trials may be set on an available Wednesday or Thursday if approved by the assigned judge.
- (4) Domestic cases requiring two hours or less in trial time may be set on the monthly Stacked Dissolution Calendar.
- (5) Trials do not occur on Fridays, as all judges hear a Civil Motions Calendar that day. Juries may deliberate on Fridays, however.
- (6) Responsibility for the weekly Criminal Motions calendar rotates between Departments. The judge hearing the rotation will not be available to begin trial that week.
- (7) Parties to cases which will require more than three days of trial may consult the assigned judge's judicial assistant in advance of the Trial Setting Calendar.
- (8) Trials involving issues of criminal charges, mental commitment, habeas corpus, unlawful detainer, and termination of parental rights have constitutional and/or statutory priority over civil trials. Because these cases can be unpredictable, court staff generally do not know whether a priority matter will "bump" a civil trial until the first day of the Court's trial week. A judicial assistant will contact each party by noon on the first day of the trial week to advise the parties of the trial's status. The parties to a case that is "bumped" from its trial date must note the case for the Trial Setting Calendar as described in this Rule. The prior "bump" may be called to the attention of the judge, who may assign priority to the case as appropriate.

(9) While civil cases are usually heard in the department to which they are assigned, department assignments are not final as the Court may reassign cases depending on its schedules and operating considerations.

[Revised 9/1/17 and 9/1/19, 9/1/22]

WCCR 40.2

Responsibility to be Ready for Trial, Motions in Limine

(a) Responsibility to be Ready for Trial. Counsel and parties in cases given a second or third setting shall be ready for trial on the date set. It is the obligation of the attorneys to be aware of the status of the trial calendar, keeping in mind WCCR 40.1 which provides that a case may be transferred to a different department for trial. A party is not released from a trial setting until noon of the last judicial day before trial, although the release time may be extended by the assigned judge for good cause.

(b) Motions in Limine. Notice should be given to the assigned judge's judicial assistant as to the nature, number, and expected time required for hearing of motions in limine. Routine motions in limine may be heard the morning of trial. If substantial hearing time is needed for complex or numerous such motions, or in cases in which rulings on motions in limine will affect the framing of issues for trial, a pretrial hearing on motions in limine may be set. Parties to such cases should contact the assigned judge's judicial assistant at least two weeks prior to trial to arrange a special hearing time. The timelines contained in WCCR 77.2 apply.

[Revised 7/1/09, 9/1/17, 9/1/22]

WCCR 40.3

Trial Continuances

When a cause is set for trial, it must be tried or dismissed unless good cause is shown for continuance. No trial continuance will be granted merely upon stipulation of the parties. All motions for continuance shall be in writing, supported by an affidavit, and noted for hearing to the assigned judge's regular Civil Motions Calendar. The court may impose terms if a continuance is granted.

[Effective 6/1/91, Revised 9/1/22]

WCCR 40.4

Disqualification of Judge and Case Reassignment

Procedures and rules regarding disqualification of a judge are governed by RCW 4.12.040 and .050, CR40, CrR 8.9 and RALJ 3.2. A Notice of Disqualification must be filed with the Clerk's Office with a proposed original Order on Notice of Disqualification. A copy must be served on all parties. The Notice will be reviewed by the judge whose disqualification is sought or, in that judge's absence, by another judge. The Court will notify the parties of the disqualification (or denial thereof) and any reassignment. A Notice of Disqualification is waived if neither party brings it to the attention of the disqualified judge at a subsequent hearing. Should a party

choose to rescind a disqualification previously filed, an Agreed Order Rescinding Disqualification must be immediately filed via the affected judge's judicial assistant.
[Effective 9/1/17; Revised 9/1/19, 9/1/22]

WCCR 41.1 **Notice of Settlement**

When a cause that has been set for trial is settled, notice shall be given immediately to the judicial assistant. The court may assess sanctions for violation of this rule. A jury demand fee once paid will not be refunded.
[Revised 9/1/17]

WCCR 47.1 **Juror Questionnaires**

- (a) Proposed questionnaires shall consist of two parts. The first part shall include all personal identifying information concerning the potential juror along with the juror's assigned juror number. The second part shall include all substantive questions examining bias. The second part shall not include reference to the potential juror's personal information, but will instead refer only to the Juror Number.
- (b) Proposed questionnaires must be circulated and submitted to the Court for approval by noon on Wednesday preceding trial. In civil cases, questionnaires must be submitted to the judicial assistant for the preassigned judge; in criminal cases, proposed questionnaires should be submitted by email to all four judicial assistants. Questionnaires received after the noon deadline will not be accepted. After the court has approved the questionnaire, the party submitting it must prepare sufficient copies for the prospective jurors to complete, and *immediately* deliver said copies to the assigned judge's judicial assistant/bailiff not later than 2:30 p.m. on Friday the week preceding trial.
- (c) Unless otherwise directed, the judicial assistant/bailiff will distribute case-specific questionnaires (including any case description cover sheet) at the conclusion of jury orientation. Once the questionnaires are completed, the judicial assistant/bailiff will direct the jurors to return at a time specific for commencement of voir dire. The juror number on the questionnaire will match the predetermined, randomly selected seating order.
- (d) Unless otherwise approved by the court at the time the proposed questionnaire is approved, and in order to conserve publicly funded juror compensation, the court will commence voir dire the same day as the jurors initially report and complete any questionnaire. If there is known media interest in a specific case, and in such other cases as the assigned judge in his or her discretion deems proper, a judge or commissioner shall administer the jury oath to the jurors and instruct them to avoid the media and otherwise as appropriate.
- (e) Once the judicial assistant/bailiff has finished collecting and sorting the answered questionnaires, the attorney submitting the questionnaire shall retrieve the originals from the judicial assistant/bailiff and prepare and deliver copies to opposing

counsel. Copies of the seating order will also be available at this time. The original questionnaires shall then *immediately* be returned to the judicial assistant/bailiff for filing with the Clerk. In the alternative, the answered questionnaires may be scanned for retrieval by both parties.

[Effective 7/1/09; revised 9/1/17, 9/1/22]

WCCR 51

Jury Instructions

- (a) Proposed jury instructions must be submitted at the beginning of trial in the following form:
 - (1) Prepare one paper copy of each instruction with no numbering or citations (uncited) to form the base set for instructions actually given to the jury. This should be delivered to the judge. The parties are encouraged to also supply electronic versions of these instructions in more complex cases.
 - (2) Prepare a paper copy of each instruction with specific citations in the footer (cited). Assemble the proposed cited copies: one for the court file (original), one work copy for the judge, and one set for each other party. Assemble in the order in which they would be given to the jury by numbering the proposed instructions sequentially; e.g. D-1, P-6, in the lower right-hand corner of the first page of each instruction.
 - (3) On the day of trial, file the original set of proposed cited instructions with the clerk present in the courtroom, deliver to the judge a working copy, and distribute the remaining counsel copies.
- (b) In criminal cases, the prosecuting attorney will furnish the proposed instructions for the case; defense counsel need only furnish additional instructions felt to be applicable to the case.
- (c) All counsel should be prepared to give the Court an electronic copy of proposed instructions, if requested by the Court.

[Effective 12/1/92, revised 9/1/20, 9/1/22]

WCCR 53.2

Review of Commissioner Rulings

- (a) All revisions of Commissioner rulings shall be de novo on the record made by the Commissioner, based only on those materials, papers and pleadings that were considered by the Commissioner.
- (b) Any party seeking a revision of a Commissioner's decision shall file a Motion for Revision to be heard on the Assigned Judge's civil motion calendar in accordance with WCCR 77.2. Such a motion must be filed within 10 days of the entry of the order, and shall include the following:
 - (1) A statement of the issue or issues sought to be revised

- (2) A brief statement why the moving party is seeking a revision
- (3) A transcript of the hearing before the Commissioner, unless waived by the Court for good cause shown.
- (4) A designation of the record considered by the Commissioner.

(c) Hearing on the Motion to Revise must occur within 30 days of the date the Motion is filed, unless otherwise ordered by the Court. Oral arguments shall be limited to ten minutes per side.

(d) No additional affidavits or other materials shall be filed, other than a brief setting forth the legal issue and argument of the parties.

(e) The parties in support of or opposition to revision shall submit bench copies of the materials designated pursuant to (b)(4) above, and any briefing submitted.

[Revised 7/1/09; Revised 9/1/17, 9/1/22]

WCCR 54

Entry of Orders and Judgments

- (a) In civil motions or cases tried to the court, findings, conclusions, and judgments shall be presented to the assigned or ruling judicial officer within 20 days of the court's oral order or memorandum decision. Normally, hearings for presentation of judgments and post-trial motions will all be noted for the same time.
- (b) When no appeal is intended, counsel by stipulation may eliminate findings and conclusions and may present a judgment only for signature, if allowed by CR 52.
- (c) No judgment shall be taken upon a negotiable instrument until the original instrument has been filed.
- (d) No judgment shall be taken upon an assigned cause of action until the written assignment is filed.
- (d) Every judgment providing for payment of money shall include on its first page a judgment summary conforming to RCW 4.64.030.
- (f) Presentation:
 - (1) *Time.* Orders and judgments may be presented pursuant to CR 52 and CR 54.
 - (2) *Conference of Counsel Required.* The court will not entertain any objection to properly served proposed orders, findings, conclusions and judgments unless counsel has conferred with respect to the objection. Counsel for the objecting party shall arrange for a mutually convenient conference in person or by telephone. If the court finds that counsel for any party has willfully refused or failed to confer in good faith, the court may require counsel or client or both to pay the reasonable expenses, including attorney fees, caused by the failure. The court may continue the hearing.

(3) *Written Objections.* Though not mandatory, the court urges counsel to prepare written objections so the court can compare paperwork easily. The preferred form is that used in session laws, where undesired language is struck through and new language is underlined.

(g) The assigned judicial officer may impose sanctions in the case of excessive delay in presenting orders and judgments.

[Revised 7/1/09]

WCCR 59 Reconsideration

Parties may move for reconsideration in accordance with the provisions of CR 59 and the hearing procedures set forth in these rules. A party should not file a response to a motion for reconsideration unless the Court requests a response. If the Court requests a response, the judicial assistant will inform the parties to provide deadlines for filing briefs in response and reply. Parties may only file one motion for reconsideration in a case without obtaining leave of the Court, and such leave will be granted only in rare circumstances. The Court will hear oral argument on motions for reconsideration only if the Court specifically requests it, in which case the judicial assistant will schedule a hearing at a mutually agreeable date and time. Parties should not file a note for motion/hearing/docket with their motion for reconsideration. Parties must file judges' copies of motions for reconsideration and any response or reply at the time of filing.

[Revised 9/1/17 and 9/1/19, 9/1/22]

WCCR 77.1 Courtroom Dress and Decorum

Persons who appear in court should dress in a manner appropriate to the dignity of the forum. Counsel should wear professional attire. Counsel and unrepresented "pro se" litigants should observe the formality consistent with good courtroom practice. This includes rising to address the Court, deference to other counsel while speaking, and professional behavior at all times.

[Revised 7/1/09, 9/1/22]

WCCR 77.2 Court Calendar Schedule, Pre-Arranged Settings, Motion Calendar Procedures, Confirmation

(a) Court Calendar Schedule: Non-trial motion hearings are scheduled on various calendars before the assigned judge. Please refer to Appendix A - Court Calendar Schedule online. The Court Calendar Schedule may be modified from time to time (including one-time changes for holidays or judicial conferences) without formal republication. The Court Calendar Schedule details which matters require pre-arrangement, confirmation, or both.

(b) Pre-Arranged Settings: Counsel must schedule hearings of non-trial special set matters by contacting the judicial assistant for the assigned judge. Special sets do not require confirmation, but must comply with the timelines and page limits of these rules.

(c) Friday Civil Law and Motions: Motions may be scheduled for hearing on the Friday civil law and motion calendar and may be made without pre-arrangement subject to judicial unavailability as posted on the court's web page under Judicial Unavailability. All motions must be confirmed no sooner than five judicial days prior to the hearing and no later than noon two judicial days prior to the hearing. Confirmations must be directed to the assigned judge's judicial assistant and may be made by email or telephonically, as indicated on the court's web page at www.whatcomcounty.us/1944/Superior-Court-Clerk - Confirming Your Motion. .Motions which are not confirmed will be stricken from the docket.

(d) Civil Law and Motion Calendar Procedures:

(1) Motions to be noted on the Civil Law and Motion Calendar shall be filed with the court and served on all parties by noon nine (9) court days prior to the hearing. A proposed form of an order, which the court may adopt, modify or reject consistent with its decision shall be filed and served with the motion. Responses shall be filed and served on all parties by noon four (4) court days before hearing. Replies shall be filed and served on all parties no later than noon two (2) days prior to the hearing. Parties should come to the motion calendar with original orders so that they may be entered without an additional hearing or expense wherever possible. Judge's copies must be provided at the time the original documents are filed

(2) The filing deadlines of this Rule do not apply to summary judgment motions, which are governed by CR 56. Summary judgment motions shall be served and filed pursuant to CR 56 and should comply with the page limits set forth in WCCR 10.3.

(3) If no one appears in opposition to a motion, upon proof of proper service the moving party may take the order requested unless the court shall deem it manifestly unauthorized. If no party appears, the motion may be deemed waived or stricken. No more than ten minutes will be allowed to each side for argument unless the court otherwise directs. Parties anticipating needing additional time shall seek advance approval of the court or seek a special set hearing.

(4) Counsel shall immediately notify the assigned judge's judicial assistant when matters are continued or stricken by the parties before hearing. Motions may be continued to a subsequent motion day by filing and serving a "re-note" for motion docket or as otherwise ordered by the court. Continuances are only tentative until a judge signs a written order of continuance.

(5) Counsel who fail to timely file papers, serve papers on opposing counsel or submit bench copies as required by these rules may cause matters to be stricken, sanctions imposed, or terms assessed. Judge's copies of all documents, including proposed orders, are due at the time the motion/response/reply is filed with the court.

(6) Counsel and those representing themselves may request remote appearance at a hearing, at the discretion of the assigned judge, by contacting the assigned judge's judicial assistant by noon on Wednesday the week of the hearing. Non-moving parties must also request a remote appearance at least 1 day prior to the hearing. A Zoom link for each judge's Friday Civil Motions Calendar may be requested of the assigned judge's judicial assistant and will be issued via email one day prior to the hearing.

**WCCR 78
Furnishing Envelope to Clerk**

A person requesting a conformed copy of pleadings or other documents, or photocopies, shall furnish a stamped, self-addressed envelope or an appropriate pre-paid courier service voucher, along with the copies of a document the person wishes to have conformed.
[Revised 7/1/09; Revised 9/1/17]

Special Proceeding Rules
(Cite as WCSPR)

Adoption Proceedings

WCSPR 93.04 Pre-Submission of Adoption Documents;

Domestic Relations Proceedings

WCSPR 94.04 Support Modification
WCSPR 94.05 Domestic Relations Show Cause Hearings and Motion
WCSPR 94.06 Pretrial Information Form, Financial Affidavit and Trial Brief
WCSPR 94.07 Entry of Dissolution Decree by Declaration of Jurisdictional Facts
WCSPR 94.08 Filings in Family Law Cases

Probate and Guardianship Proceedings

WCSPR 98.16 Probate and Guardianship/Conservatorship

**WCSPR 93.04
Pre-Submission of Adoption Documents**

All necessary consents shall be filed and judge copies of the proposed findings, conclusions, and decree of adoption shall be submitted by noon two judicial days prior to the hearing.
[Effective 6/1/91]

**WCSPR 94.04
Support Modification**

(a) **Post-decree discovery.** Post-decree formal discovery requests seeking financial information from an opposing party shall be allowed only when a support modification action has been filed unless:

- (1) A duty to provide the requested information was imposed by a previous court order; or
 - (2) Discovery has been ordered pursuant to a show cause hearing.
- (b) **Service.** A party who serves a child support modification petition or answer shall also serve the following papers:
- (1) Washington State Child Support Worksheets and a Financial Declaration (Washington Pattern Form DR 01.0550), completed with all information known to the party;
 - (2) Tax returns for the preceding three years, including all schedules, attachments, and W-2 forms;
 - (3) The party's current pay stub; and
 - (3) If a deviation from the standard calculation of child support is requested, additional affidavits to establish the basis for granting or denying the deviation.
- (c) **Filing, tax returns.** Tax returns, schedules, attachments, or W-2 forms shall be filed under seal.
- (d) **Bench copies.** Each party shall provide a bench copy of the following to the commissioner when the original is filed:
- (1) Pleadings, worksheets, affidavits, tax information, memoranda, wage information, and other information which were served on opposing counsel; and
 - (2) Washington State Child Support Worksheets for the various reasonably possible scenarios, clearly presented in a form which lends itself to comparison and discussion.
- (e) **Note for Motion Docket.** Child support modification matters are heard by a court commissioner. Child support modification matters shall be noted for any domestic calendar utilizing the court's form for that purpose, in which the filing attorney or party shall certify that the case is ready for hearing, that all issues have been joined, that all responsive pleadings as to all named parties have been filed or proper defaults have been taken, that all outstanding discovery in the case has been completed or that all parties have filed an agreed order on discovery which specifies the order and timing of discovery and terminates discovery 30 days before the hearing date noted.
- (f) **Testimony limited.** Testimony at the hearing will be allowed only upon prior authorization or when deemed necessary by the Court. Only brief argument should be required.

[Revised 9/11/06 and 9/1/17]

WCSPR 94.05

Domestic Relations Show Cause Hearings and Motions

- (a) **Motion Calendar Procedures:** Motions to be noted on the Motion Calendar, including Motions for Show Cause, shall be filed with the court by noon nine (9) court days prior to the hearing. Motions shall be filed and served upon all parties nine (9) court days before hearing. A proposed form of an order, which the Court may adopt, modify or reject consistent with the Decision of the Court, shall be served with the motion. Responses shall be filed and served on all parties by noon four (4) court days before hearing. Replies shall be filed and served on all parties no later than noon two (2) days prior to the hearing. The moving party's affidavits shall be served with the motion; the responding party's affidavits shall be served with the response. All motions shall be in compliance with WCCR 10.3.
- (b) **Confirmation.** A matter noted on the Domestic Relations Calendar must be confirmed with the Court Clerk no sooner than five judicial days prior to the hearing and no later than noon two judicial days prior to the hearing. Confirmations may be made by email or telephonically, as indicated on the court's web page at Clerk's Office, Confirming Your Hearing. Otherwise, the matter will be stricken from the docket.
- (c) **Financial affidavits.** When temporary support, maintenance, attorney fees, or costs are at issue, both parties shall file and serve with their pleadings a Financial Declaration (FL All Family 131).
- (d) **Bench copies.** Parties shall provide bench copies of pleadings in all cases consistent with WCCR 77.2(d)(5).
- (e) **Testimony limited.** Domestic issues will normally be determined by affidavits alone. Where temporary custody is in dispute the court may set a time for taking oral testimony. Oral testimony may be permitted whenever the court feels that unusual circumstances make it necessary or the other party appears in court without counsel.
- (f) **Remote appearance.** Counsel may request remote appearance at a hearing, at the discretion of the judicial officer, by contacting the Clerk's Office.

[Revised 9/1/17, 9/1/22]

WCSPR 94.06

Pretrial Information Form, Financial Affidavit, and Trial Brief

In all contested trials in domestic relations matters, each party shall prepare a written pretrial information form indicating a proposed division of assets and liabilities in the form set forth in Appendix B. If child support, spousal maintenance, attorney fees, or costs are at issue, each party shall prepare a Financial Declaration (FL All Family 131). Copies of the forms and trial briefs are NOT filed with the Clerk, but submitted to the Settlement Conference Commissioner and/or to the assigned judge, and copies must be served on the opposing counsel or party by noon five judicial days prior to trial. See also the Pro Se Instructions for Setting Settlement Conference and Trial Dates; WCSPR 94.08, and the Family Law Settlement Conference

Instructions, all of which can be found on the Whatcom County Superior Court web page under "Local Forms – Domestic."
[Revised 9/1/17 and 9/1/19]

WCSPR 94.07

Entry of Dissolution Decree by Declaration of Jurisdictional Facts

The Court will enter an agreed or default decree of dissolution of marriage without a final hearing or oral testimony when the petitioner completes a Request for Entry of Decree and Declaration of Jurisdictional Facts in the form set forth in Appendix C, and:

- (a) The respondent or respondent's attorney approves all of the final papers including The Request for Entry of Decree and Declaration of Jurisdictional Facts, or
- (b) if the respondent is in default, the decree provides for only that relief requested in the petition, or
- (c) If the respondent or co-petitioner joined in the petition and is unavailable to sign the final papers, the decree provides for only that relief requested in the petition.

When neither party is represented by an attorney, the proposed final dissolution documents shall be submitted to the Family Law Facilitator for review prior to submission to a court commissioner. When at least one of the parties is represented by an attorney or assisted by a limited license legal technician, the proposed final dissolution documents may be submitted to a court commissioner without involving the Family Law Facilitator.

[Effective 12/1/92, revised 9/1/22]

WCSPR 94.08

Filings in Family Law Cases

(a) **Application of Rule.** This rule shall apply to:

- (1) All family law petitions seeking dissolution of marriage, legal separation, or declaration of invalidity;
- (2) Actions brought by parties to non-marital personal relationships involving parenting or distribution of assets/liabilities; and
- (3) Actions to modify previously entered parenting plan final orders.

(b) **Court's Automatic Temporary Order.** Upon the filing of a Summons and Petition in any of the actions specified in sections (a) (1) and (2) above, the court on its own motion shall automatically issue a Temporary Order that includes the following provisions:

- (1) The parties be restrained from transferring, removing, encumbering,

concealing or in any way disposing of any property except in the usual course of business or for the necessities of life or as agreed in writing by the parties. Each party shall notify the other party of any extraordinary expenditure made after the order is issued.

- (2) The parties be restrained from assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of either or both parties whether medical, health, life or auto insurance, except as agreed in writing by the parties.
- (3) Each party shall be immediately responsible for his or her own future debts Whether incurred by credit card or loan, security interest or mortgage, except as agreed in writing by the parties.
- (4) Both parties must have access to all tax, financial, legal, and household records. Reasonable access to records shall not be denied.
- (5) For those actions in which children are involved:
 - (i) Each parent be restrained from changing the residence of the child(ren) until further court order, except as agreed in writing by the parties. Subsequent orders regarding parenting issues supersede previously issued orders to the extent the orders may be inconsistent.
 - (ii) Each parent shall insure that the child(ren) not be exposed to negative comments about the other parent. Neither parent shall make negative comments about the other parent in the presence of the child(ren).

(c) Filing of Parties' Financial Declarations and Verified Statement of Assets and Liabilities. Within 30 days after the filing of an appearance or answer or other responsive pleading in any of the actions specified in section (a) (1) and (2) above, each party shall serve on the opposing party:

- (1) A Financial Declaration (FL All Family 131) (in all cases involving a request for child support, maintenance or attorney fee, the declaration shall also be filed with the court); and
- (2) A Verified Statement of Assets and Liabilities including both marital and separate assets and liabilities of any kind in the form set out in Appendix E. T The Verified Statement of Assets and Liabilities shall not be filed with the court. Each party shall then file with the court a Declaration of Service attesting that the Financial Declaration and Verified Statement of Assets and Liabilities has been provided to the other party within the 30-day time limit. All parties have a duty to supplement the financial information when additional information becomes available.

(d) Required Attendance at Parenting Seminar. Within 30 days after the filing of an appearance or answer or other responsive pleading in any of the actions specified in section (a) above which involves minor children, the parties shall register for a court approved parenting program on the effects of family transitions on children, unless the parties have previously attended such a course. In cases filed pursuant to the Uniform Parentage Act, RCW 26.26, the parenting program is required only if a party

petitions for a permanent court-ordered residential schedule when no such schedule currently exists. If domestic violence has occurred in the relationship as evidenced by the criteria set forth in (g) (2)-(4) below, then the parties shall individually attend a court-approved parenting program which includes the effects of family violence on children. Each party shall attend the appropriate seminar within 60 days of registering.

- (e) After completion of the appropriate seminar, each party shall file with the court the seminar completion certificate provided by the sponsoring agency or provider.
- (f) **Failure to Attend Parenting Program.** The court may waive attendance at the parenting program upon motion for good cause shown. Unless waived by the court, failure to attend the appropriate parenting program may result in a finding of contempt and imposition of sanctions.
- (g) **Exchange of Parenting Plans.** Within 14 days of completing the appropriate program as described in (d) above, each parent shall provide the other parent with a Proposed Parenting Plan if they have not already done so. The requirement of a "behavioral evaluation" shall be added as a sub-category to non-emergency health care in the Major Decisions section of the Parenting Plan. Where there is joint decision-making, the following "red flag" behavior provision shall be included in the Parenting Plan:
 - (1) The parents shall be responsible to observe and note at-risk behavior of the children, including, but not limited to:
 - (i) Depressed mood or verbalizing suicidal thoughts,
 - (ii) Increase in aggressive behavior or acting out,
 - (iii) Running away from home,
 - (iv) Abnormal amount of physical illness,
 - (v) Changes in sleeping or eating habits,
 - (vi) Undesirable changes in school confirmed by teacher, such as significant drop in grades, missing classes, disciplinary problems, etc.,
 - (vii) Juvenile delinquency problems.
 - (2) If any of the above symptoms or problems occur and last for two weeks or more, the parents shall address the problem with each other and with the child.
 - (3) If the parents see no change in the symptoms or behavior within two weeks, the child's health care physician shall evaluate the child.

(h) **Deadline for Filing Proposed Parenting Plan**

Each party must file a proposed permanent parenting plan, and serve a copy on the other party, within thirty days of the date a notice of trial setting is filed with the Court. RCW 26.09.281. This deadline applies regardless of any deadline established in subsection (g), above.

- (i) **Mediation in Contested Cases.** Except as provided in section (j) below, in all cases specified in section (a) having unresolved issues (except child support issues), both parties shall in good faith engage in mediation with a court approved mediator in an effort to resolve the case. 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. The cost of mediation shall be paid by the parties in proportion to their incomes. Either party may seek a court apportionment of the cost of mediation.

- (j) **When Mediation Is Not Required.** Mediation shall be required except in the following cases:
- (1) For good cause shown upon motion and approval by the court; or
 - (2) Where a domestic violence restraining order or protection order (excluding ex-parte orders) involving the parties has been entered by a court at any time within the previous 12 months;
 - (3) Where a domestic violence no contact order exists pursuant to RCW 10.99;
 - (4) Where the court upon motion finds that domestic abuse has occurred between the parties and that such abuse would interfere with arm's length mediation.
- (k) Notwithstanding the foregoing, either party may by motion seek a court order requiring mediation in a case where it would not be required otherwise, if the moving party believes that the parties would be able to mediate their dispute and that mediation is reasonably likely to promote or achieve resolution.
- (l) **Settlement Conferences.** If, after mediation in good faith, or where mediation is not required, there remain unresolved issues in any case specified in section (a), the parties shall personally participate in a settlement conference conducted by a judicial officer or, for good cause shown, a person approved by the court in advance. Five days prior to the settlement conference, each party shall submit their list of unresolved issues to the settlement officer. The settlement conference shall take place no later than 2 weeks prior to trial. See also the Pro Se Instructions for Setting Settlement Conference and Trial Dates; W/CSPR 94.08, and the Family Law Settlement Conference Instructions, all of which can be found on the Whatcom County Superior Court web page under "Local Forms – Domestic." If either party does not appear for the settlement conference, the Court may waive the requirement for a settlement conference and the matter may proceed to trial on the scheduled trial date with no further notice to opposing party.
- (m) **Exchange of Settlement Offers.** If the settlement conference does not result in complete resolution of the case, each party shall submit to the other a written settlement proposal addressing all unresolved issues. This offer shall be submitted within 5 days of the settlement conference.
- (n) **Filing Documents for Trial.** At least one court day before the date of the scheduled trial, parties must file copies and submit bench copies of their proposed Orders, financial declarations, and other pertinent documents (except that proposed Parenting Plans must be filed as required in section (h) above).
- (o) **Failure to Comply.** A party's compliance with the provisions of this rule may be enforced upon Motion and Order to Show Cause. Unless compliance is waived by

the court for good cause shown, the court may order appropriate sanctions including costs, attorney's fees, and adoption of the complying party's proposal.

- (p) **Award of Attorney's Fees.** Requests for fees at the conclusion of trial may be denied unless the settlement proposals required in section (i) are filed with the court. In no event shall the settlement proposals be filed or otherwise communicated to the court until after trial. In awarding fees and costs the court may, in addition to other considerations required by law, consider the settlement proposals.
- (q) **Judicial Information System Background Checks.** Prior to presenting a permanent parenting plan to the court for approval, the party or parties shall submit a completed judicial information service (JIS) background check form to the Whatcom County Clerk. The form must include the names and dates of birth of all persons residing in each residence and must be submitted no fewer than fourteen days prior to the date of presentation of the final parenting plan. Upon receipt of a completed JIS background check form, the Court shall complete a search of the Judicial Information System for the existence of any information and proceedings relevant to the placement of the child. This search shall be performed no more than 30 days prior to the proposed date of presentation of the permanent parenting plan. The results of such search shall be available to the judicial officer presiding over the entry of the permanent parenting plan at least two court days prior to the proposed presentation date. Both the completed JIS background check form and the results of the search shall be filed under seal in the GR 22 file.

[Revised 7/1/09, 9/1/17 and 9/1/20]

WCSPR 98.16

Probate and Guardianship/Conservatorship

- (a) **Probate.** Wills may be admitted and personal representatives appointed upon either oral testimony or appropriate affidavits. A copy of the death certificate shall be filed with the Social Security number redacted unless otherwise ordered by the Court.
- (b) **TEDRA Petitions.** TEDRA Petitions shall be filed within the existing probate case. A separate filing fee may be charged for filing the TEDRA Petition.

(c) Adult Guardianship/Conservatorship Reporting

(1) All interim, periodic and final reports and accountings must be filed with the clerk, along with a proposed order and a judge's copy of the filed documents. Deadlines for approval of periodic reports and accountings are contained in the most recent Order in the case file. Hearings on periodic reports and accountings do not occur automatically; they must be scheduled consistently with the deadline dates contained in the Order. Notice of hearing must comply with RCW 11.130.275.

(2) All conservator reports must contain a statement of compliance with the Internal Revenue Code.

(3) All accountings must list the opening balance, receipts, disbursements, and ending balance.

(4) Time sheets of guardians, guardians ad litem (whether county paid or privately paid) and attorneys are required to assist the Court in fixing fees. Judges' copies must be supplied when these documents are filed with the clerk.

(5) Failure without excuse to file reports as required by law or by this rule may result in sanctions by the Court and imposition of terms, including but not limited to denial or reduction of requested fees.

(6) **First periodic report following January 1, 2022.** The first periodic report filed by a guardian or conservator after January 1, 2022 must contain the following, in addition to regular reporting requirements:

- (i) a caption indicating that this is the first periodic report since January 1, 2022;
- (ii) A statement that the guardian or conservator is qualified to act pursuant to RCW 11.130.090;
- (iii) A statement as to whether or not a successor or co-guardian should be appointed when a designated act occurs, and whether the proposed successor or co-guardian is ready to serve; and
- (iv) A statement that the guardian or conservator has considered whether the needs of the individual can be met by a protective arrangement instead of guardianship or conservatorship or other less restrictive alternative, and, if not, reasons therefor.

Local court forms are available in the Superior Court Clerk's Office to assist with compliance with the above.

(7) **Proposed order approving first periodic report following January 1, 2022.** A proposed order shall be submitted with the report, containing the following:

- (i) a caption indicating that this is the first periodic report since January 1, 2022;
- (ii) a summary on the first page of whether a guardian or conservator has been appointed, and whether the appointment is full or limited;
- (iii) a proposed finding that the guardian or conservator is qualified to act pursuant to RCW 11.130.090;
- (iv) a proposed finding that the needs of the individual cannot be met by a protective arrangement instead of guardianship or conservatorship or other less restrictive alternative;
- (v) a proposed finding appointing a successor guardian or conservator, if recommended;
- (vi) a finding that any standby guardian of the person or estate previously appointed is hereby removed and no longer in effect; and

(vii) an order that the guardian or conservator must provide the Individual with Notification of Rights within 30 days pursuant to RCW 11.130.315 and RCW 11.130.425 and to file proof of mailing with the Court, and setting a review hearing to monitor compliance, or a finding that the guardian or conservator has provided such notice to the Individual prior to the hearing.

Local court forms are available in the Superior Court Clerk's Office to assist with compliance with the above.

(8) **Acceptance of Appointment of Guardian or Conservator.** For all cases, including those filed prior to January 1, 2022, no new Letters will be issued until the Guardian or Conservator files an Acceptance of Appointment pursuant to RCW 11.130.040.

(9) **Lay Guardian and Conservator training.** All non-professional Guardians and Conservators, even those appointed prior to January 1, 2022, must complete lay guardian training, which can be found online at <https://www.courts.wa.gov/guardianportal>, and file proof of completion prior to the first hearing to approve a periodic report which occurs after January 1, 2022.

(10) **Waiver of hearing.** A guardian and/or conservator may request, through the assigned judge's judicial assistant, that periodic review be considered without oral argument or appearance. If such a request is granted, the review may be rescheduled and appearance required if there is an unanticipated objection to the report on the hearing date.

(d) **Minor Guardianships.**

(1) **Finalized RCW 26.10 Matters.** No action shall be taken to modify, adjust, enforce, or otherwise affect orders in any finalized 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. This conversion shall be accomplished by the Clerk of the Court automatically upon the filing of any petition to modify or terminate the finalized non-parental custody matter; the Clerk shall file the new petition as a Case Type 4, and file the RCW 26.10 filings into the new RCW 11.130 matter.

(2) **Modifications and Terminations of Finalized RCW 26.10 matters.** Any party seeking a modification or termination of a finalized non-parental custody matter shall provide notice of the action to all parties to the finalized non-parental custody matter as well as all persons entitled to notice under RCW 11.130. In the event that a finalized non-parental custody action has multiple minors who do not all have the same legal parents, the clerk's office will create a new RCW 11.130 matter for each minor or minors who share the same legal parents.

(3) **Forms.** Mandatory forms available from the Washington Courts' website shall be used unless Whatcom County has adopted an alternate form. If no mandatory form or Whatcom County form exists for a necessary purpose, the parties may develop their own form.

(4) Bench Copies. Parties who fail to timely file papers, serve papers on opposing counsel or submit bench copies as required by these rules may cause matters to be stricken, sanctions imposed, or terms assessed. Bench copies of all documents, including proposed orders, are due at the time the pleading is filed with the Court, and shall be supplemented if there are subsequent filings.

(5) Hearings and Trial.

All non-emergency minor guardianship matters filed under RCW 11.130 shall be set before a judge, except the following, which shall be set on the minor guardianship calendar in front of a commissioner:

- i. The initial hearing in the matter, to determine whether the matter is contested and to address the appointment of counsel; and
- ii. Any hearing to enter unopposed or agreed orders in the matter.

(6) Proceedings

- a. *Initiation.* All minor guardianship actions shall be commenced by the filing of a summons, petition, confidential information form, case type cover sheet, supplemental declaration, and coversheet for a JIS background check. This requirement does not apply to matters converted from RCW 26.10 matters.
- b. *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.
- c. *Requirements.*
 - i. *DCYF order.* At the time of filing the action, the petitioner(s) shall seek and obtain an order directing the Department of Children, Youth and Families to release information as provided under RCW 13.50.100 and RCW 11.130.210.
 - ii. *WATCH report.* At the time of filing the action, the petitioner(s) shall file the results of a Washington State Patrol criminal history report as required by RCW 11.130.210 and then promptly serve the results on all persons entitled to notice under RCW 11.130.
 - iii. *JIS background check.* Prior to any request for a temporary order, including emergency order(s) under RCW 11.130.215, the petitioner(s) shall file a JIS request form with the Clerk under seal, and provide a copy to Court Administration, providing the names and dates of birth of the following parties: (1) petitioner(s); (2) any others residing in the petitioner(s)'s home; (3) minor's parent(s); (4) any adult residing in the parent(s)'s homes; (5) proposed guardian(s); and (6) any adult residing in the proposed guardian(s)'s home.
- d. *Finalization.* Agreed final minor guardianship orders may be entered ex parte. Any party requesting entry of a final minor guardianship order shall ensure that there is a current JIS background check on file; the Court may decline to enter final orders in the event a JIS background check is more than 30 days old. Any petitioner(s) seeking an order of default against any respondent(s) shall set their motion on the Minor Guardianship motions calendar.

(7) Objections. Any person entitled to notice under RCW 11.130 who objects to the appointment of a guardian shall promptly file and serve on all other persons entitled to notice a completed "Objection to Minor Guardianship", GDN M 301.

- (8) Appointment of Guardian ad Litem or Court Visitor.** The Court shall maintain a registry of qualified persons willing to be appointed as a Court Visitor (CV) or guardian ad Litem (GAL) for minor guardianship cases consistent with the statutory requirements of RCW 11.130.
- a. A GAL or CV shall be appointed from the above registry in a system of consistent rotation. In the event that the Court does not select the next person on the rotation, it shall include in the order of appointment a written reason for its decision.
- (9) Child Support.**
- a. Petitioner(s) in minor guardianship matters may request child support pursuant to RCW 26.19 and RCW 11.130.255.
 - b. Until such forms and worksheets are drafted specifically for the purpose of establishing and modifying child support in minor guardianships, current mandatory family law forms shall be used and modified as needed. The moving party shall file and serve a note for hearing, motion, proposed child support order, proposed child support worksheets, financial declaration, and proof of income (tax returns, W-2s, et cetera). All tax documents shall be filed under seal.
- (10) Relocation.** Until such forms and worksheets are drafted specifically for the purpose of addressing relocations in minor guardianship matters, mandatory family law forms shall be used and modified as needed.
- (11) Guardian's Acceptance of Appointment.** The guardian name(s) must be typed or printed on the acceptance of appointment exactly 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.
- (12) Appointment of Attorney for Minor.** Any minor age 12 or older may request the Court to appoint an attorney at public expense. If the Court determines that an attorney should be appointed for a minor, the Court will enter an order appointing an attorney, and the Minor Guardianship Facilitator will identify an available attorney from the registry maintained by the Court. The attorney shall be appointed from the registry in a system of consistent rotation, depending on availability. In the event that the Court does not select the next person on the rotation, it shall include in the order of appointment a written reason for its decision.
- (13) Appointment of Attorney for Parent.**
- a. Any parent wishing to have an attorney appointed to represent him or her due to indigency shall contact the Whatcom Office of Assigned Counsel to obtain the Indigency Screening form and a motion and proposed order appointing counsel, complete the form, motion and proposed order (GDN ALL 021 and GDN ALL 022), and return all three documents to that Office for screening.
 - b. The Office of Assigned Counsel will complete the screening and forward the results along with the completed motion and proposed order to the Minor Guardianship Facilitator, who will provide the materials to the appropriate commissioner for ex parte review.
 - c. If the Court determines that an attorney should be appointed for a parent, the Court will enter an order appointing an attorney and the Minor Guardianship

Facilitator will identify an available attorney from the registry maintained by the Court. The attorney shall be appointed from the registry in a system of consistent rotation. In the event that the Court does not select the next person on the rotation, it shall include in the order of appointment a written reason for its decision.

[Revised 9/1/17, 9/1/19, 9/1/22]

Guardian ad Litem Rules

(Cite as WCGALR)

WCGALR 4

Authority of Guardian ad Litem

In addition to other elements required and contained in any order appointing a guardian ad litem, the following provisions shall be included:

- (a) Guardianship Cases. Orders appointing guardians and guardians ad litem in guardianship matters shall include the following provisions:

IT IS FURTHER ORDERED, that within thirty (30) days of the entry of the order appointing a guardian herein the guardian shall file a receipt for the blocked funds of the guardianship and a bond, if any, as ordered by this Court. The guardian or the guardian's attorney shall serve the guardian ad litem with a conformed copy of the receipt and a copy of the filed bond. If no receipt or bond has been filed within thirty days of the entry of the order appointing a guardian, the guardian ad litem shall contact the guardian and determine the reason why the receipt or bond has not been filed. The guardian ad litem shall file a status report about the reason for the delay, and if the guardian ad litem has any cause for concern about the protection of the ward's assets, the guardian ad litem should immediately advise the Court that a show cause hearing is warranted. Once the guardian ad litem receives satisfactory proof that the receipt or bond has been filed, the guardian ad litem or petitioner's attorney, if any, shall move the Court for an order discharging the guardian ad litem and approving any additional fees and costs to be charged to the guardianship estate which were incurred by the guardian ad litem in monitoring the receipt and bond status. The Court may not authorize compensation to the guardian ad litem for any action by the guardian ad litem taken beyond the duties outlined in order.

- (b) All Cases: Orders appointing guardians ad litem in guardianship matters shall include the following provisions:

The guardian ad litem will provide the parties with an itemized accounting of time, billing and costs for services each month. Payment is due within fifteen days after billing each month. Should a party disagree with an amount billed, he or she shall immediately contact the Guardian ad Litem to discuss the billing. If the matter is not resolved, the party shall note the matter upon the Court's calendar for review and notify the guardian ad litem of the date and time of the hearing. A party shall

be liable to the guardian ad litem for court costs, interest and attorney fees if collection action is required because payment was not made on time. The parties' obligation to pay guardian ad litem fees and costs is reasonably related to their support obligation and may be enforced by contempt proceedings at any time notwithstanding the entry of a final decree or order of dismissal of this action. At a contempt hearing, the responding party has the burden of establishing a justifiable excuse for non-payment. If non-payment is not excused, the party may be subject to jail time, fines, attorney fees, and other compensatory relief.

[Effective 9/1/06]

Guardian ad Litem Grievance Procedures

(Cite as WCGAL)

- WCGAL 7.1 Guardian ad Litem Advisory Committee
- WCGAL 7.2 Submission of Complaints
- WCGAL 7.3 Review of Complaint
- WCGAL 7.4 Response and Findings
- WCGAL 7.5 Confidentiality
- WCGAL 7.6 Complaint Processing Time Standards
- WCGAL 7.7 Removal from Registry

WCGAL 7.1

Guardian ad Litem Advisory Committee

The Court's Guardian ad Litem Advisory Committee hereinafter referred to as the "Committee," will administer complaints about guardians ad litem.

[Effective 9/1/00; Revised 9/1/19]

WCGAL 7.2

Submission of Complaints

All complaints must be filed within six (6) months of the Court's discharge of the Guardian ad Litem. Complaints must be in writing and must be submitted to the Superior Court Administrator. All complaints must bear the signature, name and address of the person filing the complaint.

[Effective 9/1/00; Revised 9/1/19]

WCGAL 7.3

Review of Complaint

Upon receipt of a written complaint, the Court Administrator shall convene the Committee to review the complaint. The Committee's investigation begins on the date that the Notice of Complaint is sent to all Committee members, by any electronic or written means. The Chair of the Advisory Committee is the contact person for all parties and no discussion or other contact with other members of the Committee may be had by any party during the investigation except

as specifically requested by the Advisory Committee Chair. Upon review of the complaint, the Committee shall either:

- (a) Make a finding that the complaint is with regard to a case then pending in the Court and decline to review the complaint and so inform the complainant. In such instances the Committee shall advise the complainant that the complaint may only be addressed in the context of the case at bar, either by seeking the removal of the Guardian ad Litem or by contesting the information or recommendation contained in the Guardian ad Litem's report or testimony. In such cases the Committee and its members shall perform its role in such a manner as to assure that the trial judge remains uninformed as to the complaint; or
- (b) Make a finding that the complaint has no merit on its face, and decline to review the complaint and so inform the complainant; or
- (c) Make a finding that the complaint appears to have merit and request a written Response from the Guardian ad Litem within 10 business days, detailing the specific issues in the complaint to which the Committee desires a response. The Committee shall provide the Guardian ad Litem with a copy of the original complaint. Once the Committee's investigation begins, no additional documents or information will be considered unless specifically requested by the Committee. In considering whether the complaint has merit, the Committee shall consider whether the complaint alleges the Guardian ad Litem has:
 - (1) Violated a code of conduct;
 - (2) Misrepresented his or her qualifications to serve as a Guardian ad Litem;
 - (3) Breached the confidentiality of the parties;
 - (4) Falsified information in a report to the court or in testimony before the court;
 - (5) Failed, when required, to report abuse of a child;
 - (6) Communicated with a judicial officer ex-parte concerning a case for which he or she is serving as a guardian ad litem;
 - (7) Violated state or local laws or court rules; or,
 - (8) Taken or failed to take any other action which would reasonably place the suitability of the person to serve as a Guardian ad Litem in question.

[Effective 9/1/00; Revised 9/1/19]

WCGAL 7.4 Response and Findings

- (a) Upon receipt of a written response to a complaint from the Guardian ad Litem, the Committee shall make a finding as to each of the specific issues in the complaint to which the Committee desires a response, as delineated in the Committee's letter to the Guardian ad Litem. Such findings shall state that either there is no merit to the issue based upon the Guardian ad Litem's response or that there is merit to the issue.
- (b) The Committee shall have the authority to issue a written admonishment, a written reprimand, refer the Guardian ad Litem to additional training, or recommend to the Presiding Judge that the Court suspend or remove the Guardian ad Litem from the registry. In considering a response, the Committee shall take into consideration any

prior complaints that resulted in an admonishment, reprimand, referral to training, or suspension or removal from a registry. If a Guardian ad Litem is listed on more than one registry, the suspension or removal may apply to each registry the Guardian ad Litem is listed on, at the discretion of the Committee.

- (c) The complainant and the Guardian ad Litem shall be notified in writing of the Committee's decision following receipt of the Guardian ad Litem's response.

[Effective 9/1/00]

WCGAL 7.5 Confidentiality

- (a) A complaint shall be deemed confidential for all purposes unless the committee has determined that it has merit under WCGAL 7.4, above.
- (b) Any record of complaints filed which are not deemed by the committee to have merit shall be confidential and shall not be disclosed except by court order.

[Effective 9/1/00]

WCGAL 7.6 Complaint Processing Time Standards

- (a) Complaints shall be resolved within twenty-five (25) days of the date of receipt of the written complaint if a case is pending.
- (b) Complaints shall be resolved within sixty (60) days of the date of receipt of the written complaint if the complaint is filed subsequent to the conclusion of a case.

[Effective 9/1/00]

WCGAL 7.7 Removal from Registry

- (a) When a guardian ad litem is removed from the Court's registry pursuant to the disposition of a grievance hereunder, the Court Administrator shall send a notice of such removal to the Administrative Office of the Courts.
- (b) When the Court Administrator receives notice from the Administrative Office of the Courts that a Guardian ad Litem on the court's registry has been removed from the registry of any other Washington Superior Court the Administrator shall advise the Presiding Judge of such removal.

[Effective 9/1/00]

Criminal Rules
(Cite as WCCrR)

- WCCrR 3.1 Counsel Fees in Criminal Cases
- WCCrR 6.17 Juror Questionnaires
- WCCrR 6.18 Responsibility to be Ready for Trial, Motions in Limine
- WCCrR 7.2 Criminal Sentence Financial Obligations

WCCrR 3.1
Counsel Fees in Criminal Cases

- (a) Following a two-week period for evaluation, an attorney who agrees to represent a person in a criminal proceeding and/or accepts fees to do so may not withdraw absent Court approval.
- (b) A commitment to represent includes an assessment of the expenses of necessary investigation, expert opinions and other trial preparation, and of the client's ability to pay fees and costs. Ordinarily, the Court will not order payment for expert and investigation costs at public expense where private representation has been retained. In any event, the county will not pay for expense incurred without prior court order authorizing such expense to be incurred.
- (c) A request for services under CrR 3.1(f) shall be made to the Presiding Judge, who may decide the question, or delegate the matter for additional judicial review. Such request shall allege with specificity the services sought, the necessity of such services to an adequate defense, the reasonable compensation for such services, and the financial inability of the requesting party.

[Effective 6/1/91; Revised 9/1/17, 9/1/22]

WCCrR 6.17
Juror Questionnaires

Juror questionnaires may be used in accordance with WCCR 47.1.
[Effective 7/1/09]

WCCrR 6.18 Motions and Trials in Criminal Cases

(a) Responsibility to Be Ready for Trial

Once confirmed, the parties to a trial are required to be ready to proceed to trial on the scheduled trial date. The only exceptions are:

1. The parties reach a resolution shortly before the trial date, and a plea or other order incorporating that resolution is entered by the Court on the trial date.
2. The Court orders a continuance for good cause which was not known or knowable to the parties before the confirmation of the trial date, or which could not be heard prior to confirmation.
3. The charges are dismissed.

(b) Trial Assignment; Omnibus Hearing; Rescheduling

1. Trial dates and status/omnibus hearing dates are assigned at the arraignment hearing. Once scheduled, a trial date may not be rescheduled except by order of the Court.

2. At or prior to the status hearing, which shall be scheduled for the Wednesday of the week that is three weeks prior to the trial date, the parties may submit an agreed proposed trial setting order with new dates for status/omnibus and trial, if it has been less than 24 months since the case was filed. For matters older than 24 months since filing, orders continuing a trial date must be brought before the Court for approval.

3. An omnibus hearing will be scheduled with the status hearing. If the Court maintains the trial date at status, the Court will continue the Omnibus Hearing to the following Monday on the "Trial Call" calendar.

The parties will prepare for the Monday Omnibus Hearing by doing the following:

- a. File and exchange witness lists by noon on Friday.
- b. Exchange proposed Omnibus Orders by noon on Friday.
- c. Identify witness availability or other discovery concerns.
- d. Identify any other need for a continuance of the trial date.

The procedure and format for the Monday Omnibus Hearing will be consistent with CrR 4.5. The Court will utilize a checklist as provided in CrR 4.5(c). The parties shall be prepared to address anticipated questions of the Court, advise regarding motions, identify discovery/witness concerns, and argue or respond to any motions to continue the trial date. Following the hearing, the Court will sign an Omnibus Order pursuant to CrR 4.5(h), and, if maintained for trial, set the matter for Trial Confirmation the Thursday before trial. Once noted for Trial Confirmation, the matter shall not be stricken or continued without the approval of a Judge in open court.

4. Motions:

- a. Motions must conform to the requirements of CrR 8.1 and 8.2 and the provisions cited in those rules. Motions must be filed and served at least five court days before the hearing date.
- b. Every Motion must include a concise statement of the relief sought; a sworn declaration describing the pertinent facts; and, in appropriate cases, a memorandum of applicable law.

5. Guilty Plea and Sentencing Hearings

- a. Guilty Plea and Sentencing hearings involving defendants who are in custody will be heard on the Thursday Criminal Motions Calendar. If victim testimony will be presented or if the hearing will be longer than ten minutes, the attorneys should note the case for hearing as a special set matter before the assigned judge.
- b. Guilty Plea and Sentencing hearings involving defendants who are out of custody are heard at the Tuesday Criminal Motions Calendar. If victim testimony will be presented or if the hearing will be longer than ten minutes, the attorneys should note the case for hearing as a special set matter before the assigned judge.
- c. Recusals and Disqualifications
A party who files a motion in a case in which the motion calendar judge has recused or has been disqualified must reschedule the hearing on the

motion in another Department of the Court. Such requests must be communicated to all judicial assistants by email by the end of the second day preceding the hearing (4:30 Tuesday for hearing on Thursday).

[Revised 9/1/18, 9/1/19, 9/1/22]

WCCrR 7.2

Criminal Sentence Financial Obligations

This rule applies to any fine, assessment, restitution, Court costs, or attorney fees ordered by the Court in a Judgment and Sentence or other Order.

- (a) **Interest.** Interest on restitution is at the rate prescribed by statute, currently 12% per year. The Court will consider a motion to waive or reduce interest in cases of financial hardship. Interest shall not accrue on Court costs and fines.
- (b) **Time Payments.** The ordered financial obligations shall be paid in equal monthly installments sufficient to completely pay the entire amount during the defendant's term of supervision by the Department of Corrections, unless a different rate is set by the Court.

The first payment shall be due 30 days after the date of judgment or defendant's release from total confinement, whichever occurs last. Subsequent payments shall be due on the same day of each following month.

- (c) **Petition to Modify.** The defendant may, at any time after release from incarceration, petition the Court to adjust the amount of installment payments, interest or adjust the total amount, based on undue hardship or other good cause.

[Effective 6/1/91; Revised 9/1/19, 9/1/22]

WCCrR 7.8

Post-Conviction Motions

(a) **Filing and Service.** A motion for post-conviction relief pursuant to CrR 7.8 shall be filed with the Clerk and served on the Whatcom County Prosecuting Attorney. The motion shall be accompanied by supporting affidavits and documentation. At the time the motion and supporting documentation is filed, the moving party shall set the matter for a hearing on the Friday civil calendar of the sentencing Judge or successor.

(b) **Court's Initial Consideration.** Upon receipt of a properly filed motion for post-conviction relief pursuant to CrR 7.8 and Note for Docket as above, the Clerk shall docket the matter for *ex parte* judicial review on the day and time sought in the filing. The review will occur in chambers and without further briefing, appearance, or argument by the parties.

Following the date noted for such review, the Court shall enter an Initial Consideration Order transferring the motion to the Court of Appeals for consideration as a personal restraint petition, unless it finds that the motion is not barred by RCW 10.73.090 and either (i) the defendant has made a substantial showing that they are entitled to relief or (ii) resolution of the motion will require a factual hearing. If the Court does not transfer the motion to the Court of Appeals, it shall instead enter an Order to Show Cause setting the time and place for hearing.

(c) Order to Show Cause. If the Court enters an Order to Show cause why the requested relief should not be granted, the Judicial Assistant will arrange for the setting of the Show Cause Hearing within 30 days after entry of the Show Cause Order. The Show Cause Hearing will be with oral argument unless the Show Cause Order states that it shall be without oral argument.

(d) Response and Replies. Responses shall be filed and served not less than 15 days before the date set for the show cause hearing, and replies shall be filed and served not less than 7 days before the date set for the show cause hearing unless the time for responses or replies is extended or shortened by the Court. The response may take the form of a motion to transfer the defendant's motion to the Court of Appeals for consideration as a personal restraint petition.

[Effective 9/1/22]

WCCrR 8.9 Disqualification of Judge

Refer to the procedure set forth in WCCR 40.4.

[Effective 9/1/17; Revised 9/1/19, 9/1/22]

Superior Court Civil Arbitration Rules (WCSCCAR)

Scope and Purpose of Rules

WCSCCAR 1.1	Application of Rules - Purpose and Definitions
WCSCCAR 1.2	Matters Subject to Mandatory Arbitration
WCSCCAR 1.3	Relationship to Superior Court Jurisdiction and Other Rules – Motions

Transfer to Arbitration and Assignment of Arbitrator

WCSCCAR 2.1	Transfer to Arbitration
WCSCCAR 2.2	Hearing to Determine Arbitrability
WCSCCAR 2.3	Assignment of Arbitrator

Arbitrators

WCSCCAR 3.1	Qualifications
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Procedures After Assignment

WCSCCAR 4.1	Restriction on Communication Between Arbitrator and Parties (No Local Rule)
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Hearing

WCSCCAR 5.1	Notice of Hearing - Time and Place - Continuance
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Award

WCSCCAR 6.1	Form and Content of Award
WCSCCAR 6.2	Filing of Award
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Trial de Novo

WCSCCAR 7.1	Request for Trial De Novo - Calendar
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General Provisions

WCSCCAR 8.1	Stipulations - Effect on Relief Granted
WCSCCAR 8.4	Title and Citation
WCSCCAR 8.5	Compensation of Arbitrator
WCSCCAR 8.6	Administration

SCOPE AND PURPOSE OF RULES

WCSCCAR 1.1

Application of Rules - Purpose and Definitions

- (a) **Purpose.** The Whatcom County Superior Court Civil Arbitration Rules (hereinafter referred to as WCSCCAR) implement RCW 7.06 and the Superior Court Civil Arbitration Rules (SCCAR) adopted by the Supreme Court. Superior Court Civil arbitration provides a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes. The Superior Court Civil Arbitration Rules (SCCAR), as supplemented by these Rules, are not designed to address every question that may arise during the arbitration process, and the rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to exercise that discretion. Arbitration hearings should be informal and expeditious, consistent with the purpose of relevant statutes and rules.
- (b) **"Director" Defined.** In these rules, "Director" means the Director of Arbitration for the Whatcom County Superior Court. The appointment of the director and other administrative matters are addressed in WCSCCAR 8.6, Administration.
- (c) **Limits.** Effective September 1, 2019, the amount in controversy may be up to one hundred thousand dollars (\$100,000), exclusive of attorney fees, interest, and costs as authorized in RCW 7.06.020.
- (d) **Discovery.** Any discovery pending when the case is assigned to the arbitrator is stayed unless the arbitrator orders otherwise. Discovery concerns may be resolved by the appointed arbitrator, who is authorized to order requested discovery as reasonably necessary.

[Effective 9/16/05; Revised 9/1/19, 9/1/22]

WCSCCAR 1.2

Matters Subject to Superior Court Civil Arbitration

Any civil action filed in Whatcom County Superior Court, other than an appeal from a court of limited jurisdiction, is subject to arbitration under these rules if the sole relief sought is a money judgment (a) in which no party asserts a claim in excess of the amount authorized by RCW 7.06.020 (\$100,000 as of 9/1/19), exclusive of attorney fees, interest, and costs, or, (b) in which all parties for purposes of arbitration waive claims in excess of the amount authorized in RCW 7.06.020, exclusive of attorney fees, interest, and costs. Parties are encouraged to stipulate to the arbitration of any matter in controversy. See WCSCCAR 8.1.
[Effective 6/1/91; Revised 9/1/19, 9/1/22]

WCSCCAR 1.3

Relationship to Superior Court Jurisdiction and Other Rules - Motions

All motions before the Court relating to arbitrability or the assignment of an arbitrator shall be noted on the civil motions calendar in accordance with WCCR 77.2, except as otherwise provided in these arbitration rules. Once cases have been transferred to arbitration, all motions shall be heard by the arbitrator. In the event that motions concerning arbitrability or the assignment of an arbitrator are filed after a case has been transferred to arbitration but before an arbitrator has been assigned, then such motions may be noted for consideration by the Superior Court or may be noted for consideration by the arbitrator once assigned. See also WCSCCAR 2.2 and 3.2.

[Effective 6/1/91]

WCSCCAR 2.1

Transfer to Arbitration and Assignment of Arbitrator

(a) **Demand for arbitration.** In every civil case, when any party has determined that the case is ready for trial and that the case is subject to arbitration, such party shall file with the clerk its Note for Motion Docket and Demand for Arbitration, setting the matter on the assigned judge's civil motions calendar pursuant to WCCR 77.2. At the same time the party demanding arbitration shall submit its proposed order on the form prescribed by the Court. Cases shall be transferred to arbitration only by court order.

(b) An order of transfer to arbitration may be secured:

- (1) Upon stipulation and order submitted by all the parties;
- (2) Upon Demand for Arbitration filed by a party, set for hearing on the Court's civil motions calendar, when no objection has been filed by noon four court days prior to the hearing;
- (3) By order of the Court after hearing on the merits.

(c) **Response to a Demand for Arbitration.** Any party disagreeing with the Demand for Arbitration shall serve and file a response to the Demand for Arbitration with the clerk and on all other parties pursuant to WCCR 77.2. In the absence of such response, the Demand for Arbitration shall be deemed correct and the non-responding party shall be

deemed to have stipulated to arbitration and an order will be entered without a hearing. Responses asserting that the case is not subject to arbitration shall be heard on the date noted for hearing on the Demand for Arbitration. Any replies may be filed pursuant to WCCR 77.2.

(d) **Failure to File - Amendments.** A party failing to serve and file an original response within the time prescribed may later do so only upon leave of court. A party may amend the Demand for Arbitration or response at any time before the hearing on the Demand for Arbitration.

(e) **Stipulation.** A cause in which all parties file a stipulation to arbitrate under SCCAR 8.1(b) may be transferred to arbitration by court order presented to the Court with the stipulation without a hearing.

[Effective 9/16/05, revised 9/1/22]

WCSCCAR 2.2

Hearing to Determine Arbitrability

A motion to establish whether a case is subject to arbitration shall be governed by the state and local rules pertaining to civil motions practice. See WCSCCAR 2.1(c).

[Effective 6/1/91]

WCSCCAR 2.3

Assignment of Arbitrator

(a) **Generally; stipulations.** The parties are encouraged to stipulate to an arbitrator. A master list of arbitrators will be furnished upon request. In the absence of a stipulation, a list of five arbitrators will be provided to the parties and the arbitrator will be chosen from among the five proposed arbitrators in the manner defined by this rule.

(b) **Response by Parties.** Each party may, within 14 days after a list of proposed arbitrators is mailed to the parties, nominate one or two arbitrators and strike two arbitrators from the list. If both parties respond, an arbitrator nominated by both parties will be appointed. If no arbitrator has been nominated by both parties, the Director will appoint an arbitrator from among those not stricken by either party.

(c) **Response by Only One Party.** If only one party responds within 14 days, the Director will appoint an arbitrator nominated by that party.

(d) **No Response.** If neither party responds within 14 days, the Director will appoint one of the five proposed arbitrators.

(e) **Additional arbitrators for additional parties.** If there are more than two adverse parties, such parties may request the Director to include additional proposed arbitrators on the list, with the above principles of selection to be applied. The number of adverse parties and the number of additional proposed arbitrators shall be determined by the Director, subject to review by the Presiding Judge.

[Effective 6/1/91]

WCSCCAR 3.1 Arbitrators

Qualifications

(a) **Minimum Qualifications.**

(1) An arbitrator must be a member of the Washington State Bar Association who has been admitted to the Bar for a minimum of five years and who is a current member of the Whatcom County Bar Association, or who is a retired judge. By stipulation, the parties to a case may waive this requirement.

(2) Unless waived pursuant to RCW 7.06.040(2)(b), a person may not serve as an arbitrator unless the person has completed a minimum of three credits of Washington State Bar Approved continuing legal education credits on the professional and ethical considerations for serving as an arbitrator. As part of a person's application to be placed on the panel of arbitrators, the person shall submit a declaration or affidavit that a person is in compliance with the qualifications described in RCW 7.06.040.

(b) **Arbitration Panel.** There shall be a panel of arbitrators in such numbers as the Administrative Committee may from time to time determine pursuant to WCSCCAR 8.6. A person desiring to serve as an arbitrator shall complete an application on the form prescribed by the court. A list showing the names of arbitrators available to hear cases and the applications will be available for public inspection in the Director's office. The oath of office on the form prescribed by the court must be completed and filed prior to an applicant being placed on the panel. The Director shall perform an annual review to determine whether current arbitrators are willing and able to continue to serve on the panel and present his or her findings to the Arbitration Committee for further action.

(b) **Refusal; Disqualification.** The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator should notify the Director if his impartiality might reasonably be questioned. Counsel knowing any facts that would raise a reasonable question of the impartiality of the assigned arbitrator shall notify the arbitrator and the Director. In the absence of such notice, the grounds therefore are deemed waived. If disqualified, the arbitrator must immediately return all materials in a case to the Director.

[Effective 9/16/05, revised 9/1/22]

WCSCCAR 3.2 Authority and Responsibility of Arbitrators

An arbitrator has the authority and the responsibility to:

- (a) Conduct the arbitration in an equitable and impartial manner, in accordance with applicable statutes and rules, and to make awards;
- (b) Determine the time, place, and procedure to present a motion before the arbitrator.
- (c) Require a party or attorney representing such party, or both, to pay the reasonable

expenses, including attorney's fees, caused by the failure of such party or attorney, or both, to obey an order of the arbitrator, unless the arbitrator finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. The arbitrator shall make a special award for such expenses and shall file such award with the County Clerk, with proof of service on each party. The aggrieved party shall have 10 days thereafter to appeal the award of such expenses in accordance with the procedures prescribed in RCW 2.24.050. If within 10 days after the award is filed no party appeals, a judgment shall be entered in a manner described generally under SCCAR 6.3;

(d) Award attorney's fees as authorized by these rules, by contract or by law, as if the matter were tried in court;

(e) Issue a subpoena in accordance with SCCAR 4.3.

[Revised 9/1/95]

WCSCCAR 4.2 Procedures After Assignment

Discovery

(a) **Generally.** In determining when additional discovery beyond that directly authorized by SCCAR 4.2 is reasonably necessary, the arbitrator shall balance the benefits of discovery against the burdens and expenses. Authorized discovery shall be conducted in accordance with the Civil Rules except that motions concerning discovery shall be determined by the arbitrator.

(b) **Discovery Pending at the Time Arbitrator is Assigned.** Discovery pending at the time the case is assigned to an arbitrator is stayed unless reinstated by the arbitrator, except as the parties may stipulate or as authorized by SCCAR 4.2.

(c) **Admissibility of Discovery.** All discovery admissible under the Civil Rules or Rules of Evidence will be admissible at the arbitration hearing, whether or not such discovery was produced before or after the appointment of an arbitrator.

[Effective 6/1/91]

WCSCCAR 5.1 Notice of Hearing - Time and Place – Continuance

An arbitration hearing may be scheduled at any reasonable time and place chosen by the arbitrator. The arbitrator shall give reasonable notice of the hearing date and any continuance to the Director. The parties may stipulate to a continuance without court order. However, no continuance, or combination of continuances, shall continue the hearing later than seventy-five days from the date of the appointment of the arbitrator, without a court order.

[Effective 6/1/91, revised 9/1/22]

WCSCCAR 5.2

Pre-Hearing Statement of Proof - Documents Filed With Court

In addition to the requirements of SCCAR 5.2, at least 14 days prior to the date of the arbitration hearing, each party shall furnish the arbitrator with copies of pertinent pleadings previously filed by such party, a list of witnesses whom the party intends to call at the arbitration hearing and any other documents contained in the court file which that party deems relevant. The court file shall remain with the County Clerk.

[Revised 9/1/95]

WCSCCAR 5.3

Conduct of Hearing - Rules of Evidence

- (a) **Conduct of Hearing.** The hearing shall be conducted pursuant to SCCAR 5.3.
- (b) **Recording.** The arbitrator or any party at the party's expense may record the hearing electronically or otherwise.
- (c) **Rules of evidence, generally.** The Arbitrator shall determine to what extent the Rules of Evidence shall apply pursuant to SCCAR 5.3(e).
- (d) **Opposing party may subpoena author or maker as witness.** Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross examination.

[Effective 6/1/91, revised 9/1/22]

WCSCCAR 6.1

Award

Form and Content of Award

- (a) **Form.** The award shall be prepared on the form prescribed by the court. The award shall be in writing and signed by the arbitrator. The arbitrator shall determine all issues raised by the pleadings, including a determination of any damages. Findings of fact and conclusions of law are not required.
- (b) **Return of exhibits.** When an award is filed, the arbitrator shall return all exhibits to the parties who offered them during the hearing, after allowing opportunity for opposing counsel to make copies, when requested.

[Effective 6/1/91, revised 9/1/22]

WCSCCAR 6.2

Filing of Award

Within 14 days after the conclusion of the arbitration hearing, the arbitrator shall file the award with the clerk of the Superior Court, with proof of service upon each party. A request by an arbitrator for an extension of time for the filing of an award under SCCAR 6.2 may

be presented to the Director with notice of the request given to all parties. The Director may grant or deny the request, subject to review by the Presiding Judge. The Director shall communicate a decision regarding the requested extension to the arbitrator within 7 days of presentation. The arbitrator shall give the parties notice of any extension granted. The arbitrator may file with the court and serve upon the parties an amended award to correct an obvious error made in stating the award if done within the time for filing an award or upon application to the Superior Court to amend.

[Effective 6/1/91, revised 9/1/22]

WCSCCAR 6.3

Judgment on Award

(a) **Presentation.** Any party may note the arbitration award on any civil law and motion calendar, on five days' notice in accordance with SCCAR 6.3.

(b) **Modification or Correction of Award.** In cases of voluntary arbitration entered into pursuant to §RCW 7.04(a), any application for the modification or correction of any award permitted by statute shall be made in accordance with RCW 7.04(a).240.

[Effective 6/1/91, revised 9/1/22]

WCSCCAR 7.1

Request for Trial De Novo – Calendar

When a trial de novo is requested as provided in SCCAR 7.1, the party requesting the trial de novo shall simultaneously file with the clerk its note for trial setting, its jury demand and jury fee, if appropriate.

[Effective 6/1/91]

WCSCCAR 7.2

Procedure at Trial

The clerk shall seal any award pursuant to SCCAR 7.2 if a trial de novo is requested.

[Effective 6/1/91, revised 9/1/22]

WCSCCAR 7.3

Costs and Attorney Fees

SCCAR 7.3 shall apply only to costs and reasonable attorney's fees incurred since the filing of the request for a trial de novo.

[Effective 6/1/91]

WCSCCAR 8.1

Stipulations - Effect on Relief Granted

If a case not otherwise subject to mandatory arbitration is transferred to arbitration by stipulation, the arbitrator may grant any relief that could have been granted if the case were

determined by a judge or jury.
[Effective 6/1/91]

WCSCCAR 8.4 **Title and Citation**

These rules are known and cited as the Whatcom County Superior Court Civil Arbitration Rules. "WCSCCAR" is the official abbreviation.
[Effective 6/1/91]

WCSCCAR 8.5 **Compensation of Arbitrator**

- (a) **Generally.** Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the Superior Court. Hearing time and reasonable preparation time are compensable, and reasonable costs incurred by the arbitrator are reimbursable.
- (b) **Form.** When the award is filed, the arbitrator shall submit to the Director a request for payment on a form prescribed by the court. The Director shall determine the amount of compensation and costs, if any, to be paid. The decision of the Director will be reviewed by the Presiding Judge at the request of the arbitrator. Compensation to the arbitrator and costs reimbursement shall not exceed amounts set by statute, in any case, without special approval by the Presiding Judge.

[Effective 6/1/91]

WCSCCAR 8.6 **Administration**

- (a) The Presiding Judge shall designate a person to serve as Director of Arbitration. The Director, under the supervision of the Presiding Judge, shall supervise arbitration under these rules, and perform any additional duties which may be delegated by the Presiding Judge.
- (b) There shall be an Arbitration Committee composed of the Presiding Judge or a judicial officer delegated by the Presiding Judge, the Superior Court Clerk, and three members of the Whatcom County Bar Association. The members of the Whatcom County Bar Association shall be appointed by said Association and shall serve for three-year terms during which terms they shall not be eligible to serve as an arbitrator hereunder. They may be reappointed.
- (c) The Arbitration Committee shall have the power and duty to:
 - (1) Appoint a person to the panel of arbitrators provided in WCSCCAR 23.1(b), subject to the approval from the Whatcom County Superior Court Judges;
 - (2) Remove a person from a panel of arbitrators, subject to the approval from the

Whatcom County Superior Court Judges;

- (3) Establish procedures for selecting arbitrators not inconsistent with the Superior Court Civil Arbitration Rules or these rules; and
- (4) Review the administration and operation of the arbitration program at least annually and make recommendations to the court, as it deems appropriate to improve the program.

[Effective 6/1/91, revised 9/1/22]

Juvenile Court Rules, Juvenile Offense Proceedings

(Cite as WCJCrR)

WCJCrR 6.0	Referral of Matters to Diversion or Filing in Juvenile Court
WCJCrR 6.2	Right to Counsel
WCJCrR 7.0	Release from Detention
WCJCrR 7.12	Dispositional Hearing – Offender Proceedings
WCJCrR 7.15	Violation of Community Supervision
WCJCrR 7.16	Court Forms
WCJCrR 7.4	Violation of Pre-Trial Release Conditions
WCJCrR 7.5	Issuance and Service of Notice/Summons
WCJCrR 7.6	Arrestment
WCJCrR 7.6.1	Notice and Advisement, Juvenile Offender Records
WCJCrR 7.7	Guilty Pleas
WCJCrR 7.8	Motions, Juvenile Offender Proceedings
WCJCrR 8.2	Declining Juvenile Court Jurisdiction Over an Alleged Juvenile Offender
WCJCrR 10.2	Recording Juvenile Court Proceedings
WCJCrR 77.1	Attire and Decorum

WCJCrR 6.0

Referral of Matters to Diversion or Filing in Juvenile Court

Consistent with the purposes of RCW 13.40.010, the Whatcom County Juvenile Court shall encourage the prompt referral and resolution of juvenile offense matters at all stages of the proceedings and shall discourage delays in the processing of said matters at all stages of the proceedings. To affect these purposes, the court shall require that:

- (a) Referral of matters to diversion. The Prosecuting Attorney's Office shall refer appropriate misdemeanor, gross misdemeanor and Class C felony matters to diversion promptly after receiving the completed law enforcement reports regarding juvenile offenses.
- (b) Filing of Information. If, in the Prosecuting Attorney's discretion charges are to be filed, the Prosecuting Attorney's Office shall file charges against an alleged juvenile respondent promptly after receiving the completed law enforcement report of investigation of the offense. Failure to promptly file charges may be grounds for dismissal of the charges.

[Effective 9/1/06]

WCJCrR 6.2 Right to Counsel

- (a) Notice of Appearance. Attorneys, representing parties in juvenile matters, except for appointed attorneys, must serve prompt written notice of their appearance upon all other parties or their counsel of record, the legal process unit of the court and file the same with the Clerk of the Court.
- (b) Recovery of County Expense for Appointed Counsel. Nothing in this rule shall prevent the court from ordering, as a condition of community supervision, that a juvenile offender pay court costs and fees for court-appointed counsel.

[Effective 9/1/06]

WCJCrR 7.0 Release from Detention

- (a) Generally. All juveniles held on probable cause or charged with an offense by information in Whatcom County shall have the right to post a bond and be released from detention. The court may impose additional conditions of release pursuant to RCW 13.40.040(4).
- (b) Procedure. The following steps shall be followed:
 - (1) The issue of bail shall be first addressed at the probable cause or detention hearing;
 - (2) The court may adjust the amount of bail originally set in the arrest warrant based on the particular facts and circumstances of each case;
 - (3) All bonds shall be reviewed and approved by the Prosecuting Attorney or his deputy;
 - (4) If approved by the Prosecuting Attorney, bail shall be posted or filed in the Office of the Clerk of the Court;
 - (5) The Clerk of the Court shall issue a written notice indicating the bail or bond has been posted or filed;
- (c) Release on Bail from Detention. Pre-Disposition Detainees: In the absence of an order setting bail a youth held in detention on probable cause may be released by detention staff only with physical possession of an order from the Court or telephonic approval by the Court or Prosecuting Attorney.
- (d) Post-Disposition Detainees and Youth From Other Jurisdictions: No juvenile offender from this Court's jurisdiction or any other Court's jurisdiction will be released from detention unless a written Order to that effect has been signed by a Court Commissioner or Superior Court Judge.

[Effective 9/1/06]

WCJCrR 7.12
Dispositional Hearing – Offender Proceedings

- (a) Who must be present. The prosecuting attorney, the respondent, defense counsel, respondent's parent/ guardian and juvenile court probation staff shall be present at all disposition hearings. The court may excuse a parent's presence at the disposition hearing upon good cause shown.
- (b) Time. If the respondent pleads guilty or is found guilty of the allegations in the information, the court shall enter its findings upon the record and proceed immediately to the disposition unless:
 - (1) The court believes additional information is necessary, or
 - (2) The court believes additional time is needed to determine an appropriate custody or living situation, or
 - (3) Commitment is to be considered and additional time is necessary to seek alternatives, or
 - (4) The court deems a continuance is otherwise necessary.
- (c) Sources. Pre-dispositional reports may be ordered by the court from one or more of the following sources:
 - (1) The Whatcom County Juvenile court staff;
 - (2) Any other source that can provide relevant and material information on the issue of an appropriate disposition.
- (d) Form. All pre-dispositional reports shall address the various factors required by RCW 13.40.150. All pre-dispositional reports should present potential alternatives, if any, to commitment in those cases in which it may appear that public safety can be assured and the offender's behavior improved by such an alternative. All reports shall be provided to the court and counsel no later than one (1) day prior to the dispositional hearing.
- (e) Community Diagnostic Evaluation. A diagnostic evaluation may be ordered by the court if a showing is made that such evaluation is necessary to aid the court to reach an appropriate disposition.
- (f) Restitution. The court shall fix the amount of restitution at the dispositional hearing or shall set a hearing to determine the restitution amount.
- (g) Manifest Injustice Findings. If the court imposes a sentence based upon a finding of manifest injustice, the court shall set forth those portions of the record material to the disposition.

[Effective 9/1/06]

WCJCrR 7.15
Violation of Community Supervision

- (a) Generally. Juvenile Probation officers shall make referrals to the court alleging Violations of community supervision pursuant to RCW 13.04.040 (1) (2) and (5). After review of the referral, the court may on its own motion issue a summons or warrant to compel the respondent's appearance at a hearing to review the terms of community supervision. Juvenile Probation shall provide copies of the summons and referral to all appropriate parties.
- (b) If the referral includes allegation(s) on which the prosecutor elects to file an information charging a new offense per 13.40.070 (3), the prosecutor may move to strike said allegation(s) from the referral at any time before or at the hearing on the referral. Upon hearing on the motion, the Court shall strike said allegation(s).
- (c) Nothing in this rule shall prohibit or limit the Prosecutor's Office from filing and noting a motion to modify the terms of community supervision pursuant to RCW 13.40.070 (3) or RCW 13.40.200(1). Prosecutors shall serve copies of the summons, motions and affidavits to all appropriate parties, and juvenile court probation.
- (d) Hearing.
 - (1) The juvenile probation department shall be present at such hearing to respond to questions and make recommendations concerning the matter.
 - (2) If the offender denies the allegations of the petition, the matter may be continued for a reasonable period of time for a contested hearing.
- (e) Absconding From Placement. A juvenile respondent's voluntary absence from his/her placement pursuant to the terms of community supervision is sufficient grounds for a warrant of arrest to be issued.
- (f) Warrants. Upon a showing of the reasons therefore, by declaration, or testimony upon the record, the court may order a warrant for the arrest of a juvenile respondent who violates conditions of community supervision and whose whereabouts are unknown or who is likely to fail to appear for a review hearing. A warrant may be served by law enforcement or a juvenile probation officer, subject to applicable statutes and Washington State Court Rules for Juvenile Court.

[Revised 7/1/09, 9/1/22]

WCJCrR 7.16
Court Forms

- (a) Generally. It shall be the policy of the court to use standardized court forms whenever possible.
- (b) Review. All court forms shall be reviewed and approved by the Judges and Court Commissioners

[Effective 9/1/06]

WCJCrR 7.4
Violation of Pre-Trial Release Conditions

Juvenile Court Probation Officers shall make referrals to the court regarding a respondent's non-compliance with pre-trial release conditions ordered pursuant to RCW 13.40.040(6) and make recommendations to the court regarding the need for detention pursuant to RCW 13.04.040(2). The court on its own motion may require the youth to appear at a hearing to review modification or release conditions.

At the court's direction, juvenile probation shall notify all appropriate parties of the time set by the court for the youth to appear. Nothing in this rule shall prevent the prosecutor or respondent from noting up a motion to review release conditions upon notice to all parties, the respondent's parent/guardian, and juvenile probation.

At the hearing to review release conditions the court shall hear from the state, respondent's counsel, parent/guardian, juvenile probation and others with information pertinent to the court's review regarding the need for detention or modification of release conditions.
[Effective 9/1/06]

WCJCrR 7.5
Issuance and Service of Notice/Summons

- (a) Generally. Juvenile offenders and their parent(s), guardian(s), or custodian(s) may be served by mail, postage prepaid. The Court or Prosecuting Attorney's Office shall be responsible for the preparation and mailing of the necessary pre-adjudication documents including an Affidavit of Service. Juvenile Court Administration shall be responsible for the preparation and mailing of the necessary post-disposition documents including an Affidavit of Service.
- (b) Failure to Appear on Summons. If a respondent fails to appear in response to a Notice/Summons, or if service is not affected within a reasonable time, a warrant for arrest may be issued. A reasonable time to effect service shall be defined as service within ten (10) days of the filing of the information, subject to applicable statutes and Washington State Court Rules for Juvenile Court.

[Effective 9/1/06, revised 9/1/22]

WCJCrR 7.6
Arrest

- (a) Procedure. The juvenile and his/her counsel shall prepare, review, and complete the following forms and present them to the court at the hearing:
 - (1) Juvenile's Acknowledgement of Advisement of Rights; and
 - (2) Juvenile's Notice/Advisement of Records.
- (b) Name and Date of Birth. The juvenile respondent shall be asked his/her true name and date of birth. If the juvenile alleges that his/her true name and/or date of birth is other than indicated on the information, it shall be entered in the minutes of the court.

(c) At arraignment, the court shall:

- (1) Confirm that respondent is represented by counsel or that counsel is waived;
- (2) Confirm the respondent is aware of his/her rights and the record provisions of RCW 13.50;
- (3) Read the information to respondent, unless the reading is waived, and confirm that a copy has been provided to the respondent and his/her counsel;
- (4) Take a plea from the juvenile of guilty, not guilty or not guilty by reason of insanity;
- (5) Determine if discovery has been given; and
- (6) Set the next appropriate court date and conditions of release after hearing from the parties, juvenile probation and the juvenile's parent(s)/guardian(s);
- (7) If the matter has been returned from diversion for failure to complete a Diversion contract, the court shall set a diversion termination hearing no later than two (2) weeks after the arraignment.
- (8) Group Arraignments. The court may advise juvenile respondents of their rights and explain the record provisions of RCW 13.50 in a group proceeding. All other portions of the arraignment shall be accomplished individually.

[Effective 9/1/06]

WCJCrR 7.6.1

Notice and Advisement Juvenile Offender Records

- (a) Generally. Any juvenile to whom the record provisions of RCW 13.50.050 may apply shall be given written notice of his or her rights under the referenced statute.
- (b) Procedure. The following procedure shall be followed:
 - (1) In the case of a juvenile offender, a written form signed by the juvenile in which a juvenile is advised of rights pursuant to RCW 13.50.050 and acknowledges being so advised shall be filed with the Clerk of the Court at the time of his or her arraignment.
 - (2) In the case of a juvenile referred to a diversion unit, a similar written form as in the above paragraph shall be signed by the juvenile and filed as part of the diversion agreement.

[Effective 9/1/06]

WCJCrR 7.7

Guilty Pleas

- (a) Hearing. The parties, the juvenile's parent/ guardian and Juvenile Court Probation

shall be given timely notice of the guilty plea hearing. Juvenile Court Probation staff shall be present at all guilty pleas.

(b) Procedure. The juvenile respondent and his/her counsel shall prepare and complete a Statement of Juvenile on Plea of Guilty before appearing in court. The juvenile respondent and his/her counsel shall present the completed statement to the court. After receiving the completed statement, the court shall conduct a detailed inquiry addressing:

- (1) The meaning and effect of a plea of guilty;
- (2) The elements of the offense alleged;
- (3) The juvenile's acknowledgement of his/her guilt to the offense
- (4) The standard sentencing range and the maximum punishment for the offense alleged;
- (5) Any other appropriate matters. Upon acceptance of the plea, the statement shall be filed with the Clerk of the Court.

(c) Withdrawal of Plea of Guilty. A motion to withdraw a plea of guilty may be made only before sentence is imposed and upon a showing of good cause. The court may set aside an Order of Disposition and permit a juvenile respondent to withdraw his/her plea of guilty to correct an injustice.

(d) Form. The Statement of Juvenile on Plea of Guilty will conform substantially with JuCr7.7.

[Effective 9/1/06]

WCJCrR 7.8

Motions, Juvenile Offender Proceedings

(a) Generally. Unless otherwise provided in the Civil Rules, Criminal Rules and these rules, all motions, including motions to suppress evidence, motions regarding statements, confessions and any other motion requiring testimony, shall be heard at the time of trial unless otherwise set by the Court. All motions together with a brief which shall include a summary of the facts upon which the motions are based, shall be filed and served not later than five (5) days before the adjudicatory hearing. Reply briefs shall be served and filed with the Court no later than noon of the Court day before the hearing.

(b) Contested Motions for Continuance. Motions for continuance may be granted only as follows:

- (1) All motions for continuance by parties shall be by written motion and affidavit in compliance with WCCR 40.3 and shall be noted and served on the other party and juvenile court probation at least 5 days before the motion day that precedes the adjudicatory hearing.
- (2) All motions for continuance of a trial date shall be presented in open court by the moving party.
- (3) On the motion of a party, the court may continue a juvenile offender matter

when required in the due administration of justice and none of the parties to the action will be substantially prejudiced in the presentation of their case.

(4) The court must state its reasons on the record for granting a motion for a continuance.

(5) All continuances shall be to a date certain and confirmed by written order.

(c) To dismiss for Delay in Referral of Offense. The Court may dismiss an information if it is established that there has been an unreasonable delay in referral of the offense to the Court and the delay results in prejudice to a party. Upon a prima facie showing of unreasonable delay, the Court shall then determine whether or not dismissal or other appropriate sanction will be imposed. Among those factors otherwise considered, the Court shall consider the following:

- (1) The length of the delay;
- (2) The reason for the delay;
- (3) The impact of the delay on ability to defend against the charge; and
- (4) The seriousness of the alleged offense.

(d) Unreasonable delay shall constitute an affirmative defense that must be raised by motion not later than one (1) week after arraignment. Such motion may be considered by affidavit.

(e) Revisions: Motions for revision of a Commissioner's ruling shall be made by prearranged special set through a Judicial Assistant pursuant to WCCR77.2(b) and shall be in accordance with the provisions of WCCCR 53.2.

[Revised 7/1/09, revised 9/1/22]

WCJCrR 8.2

Declining Juvenile Court Jurisdiction over an Alleged Juvenile Offender

(a) Generally. In accordance with RCW 13.40.110, any party may file an appropriate motion and supporting affidavit to decline jurisdiction with the Clerk of the Court.

(b) Report. A declination investigation report shall be prepared by the juvenile court staff. The report shall:

(1) Address the following factors:

(i) The seriousness of the alleged offense to the community and whether the protection of the community requires waiver of juvenile court jurisdiction;

(ii) Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

(iii) Whether the alleged offense was against persons or against property;

(iv) The prosecutorial merit of the complaint;

(v) The desirability of trial and disposition of the entire offense in one court;

- (vi) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living;
- (vii) The record and previous history of the juvenile, including previous contacts with law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation/community supervision, or prior commitments to juvenile institutions;
- (viii) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the juvenile court.

(2) Address any other factors relevant to the motion; and

(3) Make a recommendation to the court as to the motion.

(c) Hearing. The author of the declination investigation report shall be present at the declination hearing to testify, if so requested.

[Effective 9/1/06]

WCJCrR 10.2

Recording Juvenile Court Proceedings

Generally. All proceedings in the Whatcom County Superior Court Juvenile Division shall be recorded unless waived pursuant to statute. The electronic recording device approved by the court is approved for all hearings and for all purposes.

[Effective 9/1/06]

WCJCrR 77.1

Attire and Decorum

All people who appear in court, including by video, should dress in a manner appropriate to the dignity of the forum. All electronic equipment such as personal music players, cell phones and pagers must be turned off during court, and may be forfeited to the Court for at least the remainder of the court day if they are used during court or if they interfere with the operation of the Court in any way. No proceeding may be recorded without prior permission from the presiding judicial officer.

[Effective 9/1/06, revised 9/1/22]

Appendices

The Whatcom County Superior Court Local Rules and appendices are available in print and on the Whatcom County web site at <http://www.whatcomcounty.us/1944/Superior-Court-Clerk> under the **LOCAL FORMS** link.

Appendix A: Court Calendar Schedule (Court Calendars)

Appendix B: Domestic Relations Pre-Trial Information (Domestic Forms)

Appendix C: Request for Entry of Decree and Declaration of Jurisdictional Facts (Domestic Forms)

Appendix D: Sample Arbitration Forms: (Arbitration & Accounting Forms)

- Demand for Arbitration & Note for Motion Docket
- Response to Demand for Arbitration
- Amendment to Demand for Arbitration or Response
- Order on Demand for Arbitration
- Order Transferring to Arbitration (on Stipulation)
- Stipulation to Arbitrator
- Arbitration Award

Appendix E: Verified Statement of Assets and Liabilities (Domestic Forms)