

WSR 21-09-023
RULES OF COURT
STATE SUPREME COURT
[April 7, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO GR) NO. 25700-A-1340
27—COURTHOUSE FACILITATORS)

The Superior Court Judges' Association, having recommended the suggested amendment to GR 27—Courthouse Facilitators, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites on May 1, 2021, for a period of 45 days.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than June 14, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of April, 2021.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment to the

SUPERIOR COURT GENERAL RULES (GR)

GR 27: COURTHOUSE FACILITATORS

Submitted by the Superior Court Judges' Association

A. Name of Proponent: Superior Court Judges' Association

B. Spokesperson: Judge Judith Ramseyer, President Superior Court Judges' Association

C. Purpose:

In 1993, the Legislature created the Washington State Courthouse Facilitator Program with the stated purpose to "provide basic services to pro se litigants in family law cases." RCW 26.12.240. In response, the Supreme Court promulgated General Rule 27 ("GR 27") to implement the Courthouse Facilitator Program specified by law.

The Uniform Guardian Act (UGA), RCW Ch. 11.130, repealed existing state guardianship laws and replaced them with the UGA, effective beginning January 1, 2021. The UGA consolidated law concerning guardianships, conservatorships, and protective arrangements for both minors and adults. Pertinent to the Courthouse Facilitator Programs, RCW Ch.

26.10, was repealed as related to nonparental child custody actions. GR 27, however, does not include the UGA.

Revisions are needed to GR 27 on an expedited basis so that Courthouse Facilitator Program services will be available under the UGA. Without these needed amendments Courthouse Facilitator Programs will not be able to assist unrepresented litigants in minor guardianship cases now filed under the new law. Although as the result of compromise RCW Ch. 26.10 is not expected to be repealed until July 1, 2021 so that pending cases have a grace period in which to be resolved, new minor guardianship cases commenced after January 1, 2021, are filed under the UGA. Accordingly, between January and July 2021, Courthouse Facilitators may assist parties under both the older provisions and the newly enacted law. Because GR 27 does not authorize Courthouse Facilitator Program services under the UGA, Facilitators may be prevented from serving parties involved in minor guardianship matters commenced in 2021. The impact can be substantial. In 2019, 1,682 nonparental child custody petitions were filed in Washington Superior Courts, often involving more than one child. This proposed amendment includes needed references to the new UGA law, specifically Chapter 11.130.165 RCW, while retaining for now the reference to the law scheduled for repeal in July.

See recommended changes to GR 27: Section (a) Generally; Section (c) (2) and (3) Definitions; and Section (f) Facilitator Termination

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is requested as exceptional circumstances exist. Without the proposed amendments, GR 27 creates confusion and may result in the denial of services by Courthouse Facilitators to unrepresented litigants in minor guardianship cases commenced under the UGA.

GR 27

COURTHOUSE FACILITATORS

(a) Generally. RCW 26.12.240 and RCW 11.88.170 provide a county may create a courthouse facilitator program to provide basic services to pro se litigants in family law and guardianship cases. This Rule applies only to courthouse facilitator programs created pursuant to RCW 26.12.240 or RCW 11.88.170/RCW 11.130.165.

(b) The Washington State Supreme Court shall create a Courthouse Facilitator Advisory Committee supported by the Administrative Office of the Courts to establish minimum qualifications and develop and administer a curriculum of initial and ongoing training requirements for Family Law and Guardianship Courthouse Facilitators. The Administrative Office of the Courts shall assist counties in administering Family Law Courthouse Facilitator Programs.

(c) Definitions. For the purpose of this rule the following definitions apply:

(1) A Courthouse Facilitator is an individual who has met or exceeded the minimum qualifications and completed the curriculum developed by the Courthouse Facilitator Advisory Committee and who is providing basic services in family law or guardianship cases in a Superior Court.

(2) Family Law Cases include, but are not limited to, dissolution of marriage, modification of dissolution matters such as child support, parenting plans, nonparental custody, minor guardianship or visitation, and parentage by unmarried persons to establish paternity, child support, child custody, and visitation.

(3) Guardianship cases include cases filed under chapters 11.88, 11.90, 11.92, 11.130 and 73.36.

(4) "Basic Service" includes but is not limited to:

(A) referral to legal and social service resources, including lawyer referral and alternate dispute referral programs and resources on obtaining forms and instructions;

(B) assistance in calculating child support using standardized computer-based program based on financial information provided by the pro se litigant;

(C) processing interpreter requests for facilitator assistance and court hearings;

(D) assistance in selection as well as distribution of forms and standardized instructions that have been approved by the court, clerk's office, or the Administrative Office of the Courts;

(E) assistance in completing forms that have been approved by the court, clerk's office, or the Administrative Office of the Courts;

(F) explanation of legal terms;

(G) information on basic court procedures and logistics including requirements for service, filing, scheduling hearings and complying with local procedures;

(H) review of completed forms to determine whether forms have been completely filled out but not as to substantive content with respect to the parties' legal rights and obligations;

(I) previewing pro se documents prior to hearings for matters such as dissolution of marriage, review hearings, and show cause and temporary relief motions calendars under the direction of the Clerk or Court to determine whether procedural requirements have been complied with;

(J) attendance at hearings to assist the Court with pro se matters;

(K) assistance with preparation of court orders under the direction of the Court;

(L) preparation of pro se instruction packets under the direction of the Administrative Office of the Courts.

(d) Courthouse Facilitators shall, whenever reasonably practical, obtain a written and signed disclaimer of attorney-client relationship, attorney-client confidentiality and representation from each person utilizing the services of the Courthouse Facilitator. The prescribed disclaimer shall be in the format developed by the Administrative Office of the Courts.

(e) No attorney-client relationship or privilege is created, by implication or by inference, between a Courthouse Facilitator providing basic services under this rule and the users of Courthouse Facilitator Program services.

(f) Courthouse Facilitators providing basic services under this rule are not engaged in the unauthorized practice of law. Upon a courthouse facilitator's voluntary or involuntary termination from a courthouse facilitator program, that person is no longer a courthouse facilitator providing services pursuant to RCW 26.12.240 or RCW 11.88.170/11.130.165 or this Rule.