



GENDER AND JUSTICE COMMISSION

FRIDAY, NOVEMBER 4, 2022 (9:30 AM – NOON)

JUSTICE SHERYL GORDON MCCLOUD, CO-CHAIR

JUDGE MARILYN PAJA, CO-CHAIR

ZOOM: [HTTPS://WACOURTS.ZOOM.US/J/86951908455](https://wacourts.zoom.us/j/86951908455)

PHONE: 253-215-8782 US (TACOMA)

MEETING ID: 869 5190 8455; PASSCODE 823365



Agenda	Page
9:30 AM – 10:00 AM WELCOME AND INITIAL BUSINESS	
➤ Welcome and Introductions	Judge Marilyn Paja, Co-Chair
➤ Guest Introduction: Detective Constable Lucy Chapman	Judge Marilyn Paja, Co-Chair
➤ Approval of September 9th Meeting Minutes	Judge Marilyn Paja, Co-Chair
	p. 1
10:00 AM – 10:45 AM COMMITTEE AND PROJECT UPDATES	
➤ Washington Pattern Jury Instructions Updates: Gender Pronouns	Judge Marilyn Paja, Co-Chair
	p. 18
➤ Law Student Liaison Updates	
➤ <i>Gonzaga University School of Law</i>	Jill Bader
➤ <i>Lewis and Clark School of Law</i>	Zoe Saccio
➤ <i>Seattle University School of Law</i>	Tyler Beckham
➤ <i>University of Washington School of Law</i>	Julia Davis/ Rhea Bhatia
	p. 7
➤ Standing Committee Updates	
➤ <i>Incarceration, Gender and Justice Committee</i>	Elizabeth Hendren
➤ <i>Education Committee</i>	Judge Rebecca Glasgow
➤ <i>Domestic and Sexual Violence Committee</i>	Judge Jacqueline Shea-Brown
➤ <i>Tribal State Court Consortium</i>	Chief Judge Cindy K. Smith
➤ <i>Legislative Committee</i>	Justice Sheryl Gordon McCloud
➤ <i>GJ Study Implementation Committee</i>	Barbara Serrano
10:45 AM – 11:00 AM BREAK	
11:00 AM – 11:50 AM PRESENTATIONS AND DISCUSSION ITEMS	
➤ Missing and Murdered Indigenous Women and People Task Force and 2023 Legislation	Senator Manka Dhingra Washington State Senate
➤ Disability Justice Commission Formation Decision Package	Judge David Whedbee and Robert Lichtenburg
	p. 8



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11:50 AM – 12:00 PM **ANNOUNCEMENTS AND ADJOURNMENT**

- **Washington Women Lawyers President’s Award**
- **Supreme Court ER 1101 Amendment Order** Justice Sheryl Gordon McCloud and Judge Marilyn Paja
- **2023 GJC Meeting Schedule**
- **Adjournment**

APPENDIX

- [United Kingdom Domestic Abuse Act of 2021](#)
- [Judicial Council of California Civil Jury Instructions \(2022 edition\)](#)
- [Washington State Supreme Court Order: Non-Biased and Inclusive Language](#)
- Washington State Supreme Court Order: CJC Cannon 2, Rule 2.3 re Bias, Prejudice and Harassment p. 17
- Washington State Supreme Court Order: ER 1101 Technical Amendment re Applicability of Rules in Protection Order Cases p. 20
- 2023 Gender and Justice Commission Meeting Schedule p. 24

NEXT MEETING: January 6, 2022

 WASHINGTON COURTS	Gender and Justice Commission Friday, September 9TH, 2022 9:30 AM – 12:00 PM Zoom Videoconference	 GENDER AND JUSTICE COMMISSION <small>GENDER EQUALITY IN THE JUSTICE SYSTEM</small>
MEETING NOTES		

Members & Liaisons Present

Justice Sheryl Gordon McCloud (Co-Chair)
Dua Abudiab
Victoria Blumhorst
Judge Anita Crawford-Willis
Professor Lynn Daggett
Quinn Dalan
Laura Edmonston (Embedded Law Librarian)
Judge Rebecca Glasgow
Elizabeth Hendren
Honorable Melissa Beaton
Erin Moody
Dr. Dana Raigrodski
Barbara Serrano
Chief Judge Cindy Smith
Sal Mungia (ATJ Board)
Anita Crawford-Willis
Shannon Kilpatrick
Judge Jacqueline Shea-Brown
Commissioner Jonathon Lack

AOC Staff

Kelley Amburgey-Richardson
Crissy Anderson
Avery Miller
Laura Jones
Carl McCurley
Alex Donnici
Mishani Jack-Gonzalez

Members & Liaisons Absent

Judge Marilyn Paja (Co-Chair)
Riddhi Mukhopadhyay
Lillian Hawkins
Kelly Harris

Guests

Melinda Wieder
Chief Justice Gonzalez
Mercy Dizon

WELCOME AND INITIAL BUSINESS

Welcome and Introductions

- The meeting was called to order at 9:31 AM
- The Commission conducted formal introductions of members and staff so that new members could be acquainted with others' backgrounds, including areas of practice and committees that might be of interest.

May 27th Meeting Minutes

- The meeting minutes were approved as presented.

COMMITTEE AND PROJECT UPDATES

HB 1320 Work Group Leadership Appreciation – Justice Sheryl Gordon McCloud

- Justice Sheryl Gordon McCloud recognized the hard work and leadership of Judge Jackie Shea-Brown, Erin Moody and Laura Jones in the HB 1320 Work Group. The Washington Legislature asked the Gender and Justice Commission to develop recommendations for the legislature and the courts on civil protection order proceedings. HB1230 and HB 1901 reworked the entire protection order landscape, the Work Group convened stakeholders to study issues of access, technology, e-filing and data collection, promoting research and transparency to the public. The Commission sent each a token of appreciation for their hard work.

GJC Study Implementation Committee – Barbara Serrano

- Barbara Serrano gave an update and overview of the GJC Study Implementation Committee. The comprehensive study was published almost a year ago, covering over 20 substantive areas of the law, and included recommendations to improve gender and race equity in law. The GJC Study Implementation Committee was formed to work on realizing those recommendations and has been meeting weekly on Mondays. Crissy Anderson created an agenda through the end of the year with specific speakers and topics scheduled. Some highlights:
 - **Incarcerated Women:** Elizabeth Hendren has been working with Department of Corrections staff, including Assistant Secretary Jeannie Darneille to talk about specific recommendations for civil legal aid needs of incarcerated women and other services to alleviate issues they face.
 - **Jury Diversity:** Judge Glasgow, author of chapter 3 of the study, is working with the Minority and Justice Commission on addressing barriers facing women serving on juries. Will have a proposal for the 2023 Legislative Session.
 - **Data Collection:** Huge issue that ties in to all the other recommendations. Noted that there isn't complete and accurate data on many of these questions. Committee members meeting with representatives from Office of Equity, Governor's Office, Office of Financial Management, other stakeholders.

- **Interpreter Commission:** Session with Interpreter Commission spotlighting language barriers in accessing court particularly for women.
- **Access to Courts:** Discussion of barriers to access, such as childcare responsibilities, and efforts to make court more accessible.
- **DV-MRT:** Discussion of perpetrator treatment, particularly interest in updating the curriculum and asking questions to address some of the concerns outlined in the report.
- **Upcoming Meetings:** Some of the upcoming topics include: financial barriers to accessing courts, gender and race in the legal community, family law impacts, Missing and Murdered Indigenous Women, prosecutorial discretion, Legal Financial Obligations, commercial sexual exploitation of minors, employment harassment and gender impacts in civil proceedings. Everyone is welcome to attend.
- **Interbranch Advisory Committee:** Upcoming meeting (September 26th) between representatives of the Courts, the Legislature, the Governor's office, aimed at helping improve communication among three branches of government. Gender and Justice Commission will be presenting and needs to decide what to discuss and what is highest priority.

Incarceration, Gender and Justice – Elizabeth Hendren

- Elizabeth Hendren presented on work addressing incarceration of women and girls. This committee's work has merged with the Implementation Committee. A lot of the work has been for court access in civil/ family law for incarcerated women. Current phone system in prison is problematic as it requires outgoing calls to be answered by a live person, which makes it difficult to call any number with a phone tree or similar directory function, as is the case with many attorney's offices or nonprofit/ legal aid organizations. Federal funding prohibits Northwest Justice Project from representing incarcerated people. The Department of Corrections is restructuring and moving towards a more rehabilitation focused approach, with additional changes in technology, which makes this a key time to build connections with them. Education for judicial officers on visitation issues between incarcerated parents and children is needed.

Education Committee – Judge Rebecca Glasgow

- Judge Glasgow presented on work of Education Committee. The Fall Conference is in a few weeks and the Gender and Justice Commission has two sponsored programs, one led by Laura Jones and several members of and the Domestic and Sexual Violence Committee to answer questions from judges and gather more information on what judges are looking to learn. The second session is on trauma responsive and holistic courts, which ties to one of the recommendations of the GJC study. Committee is meeting this week to discuss Annual Conference, Judicial College, and SCJA, DMJCA and

Clerks and Court Administrators Spring conferences. Commissioner Lack proposed a cultural competency training for gender diversity in the courtroom, addressing issues of jury diversity as well. An additional proposal is related to firearm relinquishment and sanctions and compliance reviews. Committee also supports DMCJA or other conferences if they choose to do the poverty simulation kit.

- Some other education requests:
 - Friday Lunch and Learn sessions on appointment of counsel in DVPO cases.
 - Friday Lunch and Learn Session on Address Confidentiality Program.
 - Larger training on Mental Health and Substance Abuse Coercion in IPV cases.
 - Justice Gordon McCloud is putting together a training on the Dobbs decision, re full faith and credit, right to travel, out of state warrants.
 - New Member of the DSV Committee, Commissioner Terri Farmer, has offered to help lead the Friday Lunch and Learns.
- Discussion of whether the Lunch and Learn sessions are best targeted towards Judges or if lawyers may need training on similar topics as well.

Domestic and Sexual Violence Committee – Judge Jacqueline Shea-Brown

- Laura Jones gave a brief update. Work paused after the HB 1320 Workgroup disbanded, but the group anticipates reconvening soon. Working on updating the Domestic and Sexual Violence bench guides. Quinn Dalan is stepping into co-chair role.

Tribal State Court Consortium – Chief Judge Cindy Smith

- Welcome to new AOC staff member dedicated to the TSCC: Mishani Jack-Gonzalez.
- No major updates to report. Looking forward to picking up again with new staff to develop relationships between tribal and state courts.

Legislative Committee – Crissy Anderson

- Crissy Anderson announced first time the Gender and Justice Commission has a formal Legislative Committee. Right now, it is comprised of Chairs of the different subcommittees. The plan going into Session is to meet weekly as new bills are dropped, review the impacts, request feedback from stakeholders and partner entities on what to support.
 - Current Membership includes: Justice Gordon McCloud, Judge Paja, Judge Glasgow, Elizabeth Hendren, Judge Shea-Brown, and Barbara Serrano.
 - Working to put together a list of subject matter experts if people are interested in participating.

DISCUSSION ITEMS

Washington State Bar Association Bylaws Change Proposal – Imani Shannon, WSBA

- Imani Shannon joined to discuss a proposed change to WSBA bylaws diversity definition for the at-large position.
 - An overview of the purpose of the position: seeking candidates who have experience, knowledge and lived experience of the needs of those who are historically underrepresented in governance, attracting and retaining diverse lawyers and recognizing the lack of diversity in the legal profession. Diversity in this context may be based upon, but not limited to, age, race, gender, sexual orientation, disability, geography, areas and types of practice, length of practice.
 - The DEI Council has been working to interview all applicants and will place at least 3 on the ballot for a member-wide vote. Ensuring the applicants are dedicated to DEI work. They formed a DEI Definition of Diversity Workgroup to consider a proposed change to the definition.
 - Proposal: Diversity refers to meaningful representation of and equal opportunities for individuals who have lived experience as a member from an underrepresented community in the legal profession, including race, disability, sex, age, ethnicity, religion, sexual orientation, gender identity (cis and trans), and gender expression. Preference given to those who meet one or more designations while recognizing that the intersections of race with other designations exacerbates inequities.
 - Discussion of whether we want to keep parenthetical around cis/trans identities, how we want to center race, re geographical diversity.
 - Discussion of concern around specific wording re: cis and trans and the exclusion of Agender or Intersex individuals.
 - Discussion of geography relating to Latino identity especially in Eastern WA, versus geographical diversity re urban/rural divide. Rural areas don't have same access to resources, leadership, more likely to be impacted by other designations. A decision was made that because congressional seats that technically cover the whole state, there is already some mechanism ensuring geographical representation. Question on whether using congressional districts is ideal when there's controversy over how they're drawn.
 - Recommendation to add sub-definitions for terms relating to gender diversity for folks who are not as familiar.

Information Sharing: Statewide 2023 Legislative Priorities and Efforts – Commission Members

- Discussion of legislative priorities for the upcoming Legislative Session.
 - Office of Public Defense bill for post-conviction appointment of counsel; Proposed SB 5772 did not pass last year and will likely be introduced again.
 - SCJA working on clean up of RCW 26.09.191 relating to restrictions in parenting plans, supervised visitation, etc. in order to make the statute more user friendly.
 - Jury Diversity package that AOC , the Minority and Justice Commission, and Jury Diversity Workgroup is putting together. GJC hoping to add aspects around childcare, pilot projects, increasing juror pay, etc. Board for Judicial Administration will review at their next meeting.
 - Other bills members of the Commission are aware of:
 - Melissa Beaton indicated the WA Association of County Clerks has a bill relating to unclaimed property in trust that's not cost beneficial. Likely not related to GJC goals.
 - Mercy Dizon indicated survivor-based organizations are fighting arrests for prostitution.
 - Dr. Carl McCurley indicated Office of Court Innovation and AOC putting forward Data for Justice Proposal to fill some of the gaps in data that are highlighted by the GJC study. Request for more research support for behavioral health, family treatment courts, graphic presentation of info, access to data that's relevant. Still hopeful for sponsorship, working with the legislative liaison for AOC. Request to share the proposed language of the bill once it's developed.
 - Sentencing reform bill re consideration of mental health/ trauma in sentencing. Uncertain if it will be reintroduced this year.

Future In-Person vs. Virtual Meeting Discussion – Justice Sheryl Gordon McCloud

- Next meeting is November 4th. Justice Gordon McCloud led discussion of pros and cons of continuing to use zoom, lack of interpersonal connection, vs convenience for people across the state.
- Discussion of technology to offer hybrid options, “owl” devices, use of conference rooms at UW or Seattle U. Will discuss further with Kelley Amburgey-Richardson.
- Most people indicated preference for in person, likely with some kind of hybrid option.

ADJORNMENT

Announcements

- Next meeting November 4th, 2022. Potentially will be in person.

The meeting was adjourned at 12:00 PM.

Seattle University Womxn's Law Caucus:

This semester at Seattle University we have focused on community building and involvement. We have done several community events to promote conversation between WLC members; some of these events have included an ice cream social, coffee hours, happy hours, and more. Additionally, in late September, we hosted a panel event discussing the *Dobbs* decision that was extremely well-received and informative. Our Dobbs event allowed for the efficient dissemination of questions and provided a safe forum for questions and concerns.

In early November, we will be hosting prominent Afghan lawyer and Professor Negina Khalili to discuss her work bringing justice and equality to womxn and girls in Afghanistan. Following Professor Khalili's event, we will be hosting a networking event for all WLC members and womxn attorneys and legal professionals in the Seattle area. We are hoping to all parties can foster meaningful relationships.

We are also working on building our alliance with the Womxn of Color Coalition and other student organizations on campus.

Our co-presidents are working alongside UW and Gonzaga caucuses to write an amicus brief. I do not have full information on the status of the brief, but would be happy to look into it.

Washington State Judicial Branch

2023-25 Biennial Budget

Examine Disability Bias

Agency: Administrative Office of the Courts

Decision Package Code/Title: D4 – Examine Disability Bias

Agency Recommendation Summary Text:

The Administrative Office of the Courts, on behalf of the Disability Task Force, requests \$803,200 in one-time funding to conduct a two-year comprehensive needs-analysis to determine the nature and extent of the deficiencies in physical and programmatic access to state court services and programs, and to develop solutions to address disability discrimination. While the Task Force will provide subject matter expertise and support to state courts in addressing improvements to all policies, the ultimate aim of the needs analysis study is to support the establishment of a Disability and Justice Commission. The Commission will provide statewide guidance to the Supreme Court and other Washington courts so that people with disabilities have access to justice that not only meets legal compliance, but also ensures dignity, equity, and full participation in the legal system and the profession through the implementation of consistent best practices and other reforms. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	1.00	1.00	1.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$294,000	\$509,200	\$803,200	\$0	\$0	\$0
Total Expenditures						
	\$294,000	\$509,200	\$803,200	\$0	\$0	\$0

Package Description:

Much of our legal system intrinsically involves Washingtonians with disabilities, albeit not necessarily with ADA protections in mind. The entire adult guardianship statutory structure and all legal proceedings associated with it involve disability. Every hearing about a criminal defendant's capacity to aid in their own defense involves disability. Every application and appeal of disability-related employment or social security benefits involve disability. Every case enforcing the civil rights covered by the ADA (or Washington Law Against Discrimination) involves disability. All legal advice that lawyers provide around the creation of special needs trusts involves disability. Every fair hearing and case about special education rights involves disability. Every petition for involuntary civil commitment involves disability. Outside these areas inherently related to disability, there are also areas with a heavily disproportionate impact on people with disabilities, including those arising in the context of public benefits, criminal law, juvenile justice, and housing discrimination. In light of this pervasiveness, it quickly becomes apparent how important it is to fund research, a proposed needs-analysis with report and recommendations, and best practices, all with adequate staffing support, to ensure our courts are capable of meeting the access to justice needs of people with disabilities, including those with disabilities working in the legal profession.

A two-year comprehensive study of Washington courts will identify deficiencies in physical and programmatic access that persons with disabilities encounter, in addition to any cultural barriers experienced while engaging with services,

benefits, and professional opportunities within the court system. This study will result in a statewide needs-analysis, report, recommendations for best practices and the establishment of a Disability and Justice Commission. To this end, the Task Force will provide subject matter expertise and support to state courts in addressing improvements to all policies, based on an evidence-based analysis of our state's practices from the perspective of disability justice, utilizing an intersectional, anti-racist, and collective access framework created by Sins Invalid.¹

Washingtonians with disabilities² represent 22 percent of our state's adult population and 21 percent of the state's Bar members.³ In 2015, the Office of Civil Legal Aid's (OCLA) Civil Legal Needs Study found that courts and programs were not accessible, despite Title II of the ADA and GR 33 requirements.⁴ Courts routinely receive requests for accommodations (*e.g.*, auxiliary aids/services, alternative formats, breaks, and communication support) and modifications of procedures and policies (*e.g.*, representation by counsel under GR 33(a)(1)(c), presence of personal care attendants, scheduling, and use of service animals). Yet Washington courts have not adopted a uniform set of best practices for collecting data and fielding GR 33 accommodation requests; creating strategic plans for disability access; achieving court website and record filing access for blind persons; ensuring persons with disabilities are not excluded from jury service; developing trauma-informed practices for identifying and communicating with parties and other court users who may have cognitive and/or developmental disabilities; ensuring that guardianship and other special proceedings are ADA compliant; or setting forth training models to remedy any of these deficiencies. These gaps, among others, resulted in Washington receiving 37.5 out of 100 points for its disability access from the National Center for Access to Justice (2020).⁵

The study and report with recommendations will result principally in a uniform set of best practices for assuring physical and programmatic access to state court services and programs for full ADA and GR 33 compliance, and for implementing solutions to address disability discrimination and marginalization in our justice system. In addition, modular training programs can be developed for use across all state courts. Such an evidence-based best practices approach will improve efficiency by replacing ad hoc and disparate approaches to GR 33 obligations that currently exist from court to court and reduce litigation and the diversion of resources. Finally, we plan to structure a Task Force that is representative of a full spectrum of disabilities and their respective stakeholder communities, and consists of Disability Rights Washington and groups with different legal/professional perspectives.

We propose that the 2-year comprehensive study, the report and recommendation be the foundation for a Disability and Justice Commission, comparable in mission and scope to the Minority and Justice Commission, Gender and Justice Commission, and Interpreter Commission.

¹ Sins Invalid. Ten Principles of Disability Justice: <https://www.sinsinvalid.org/blog/10-principles-of-disability-justice>. The Disability Index contains 29 benchmarks: <https://ncaj.org/state-rankings/2020/disability-access/about-justice-index>.

² The Task Force uses both person-first language ("people with disabilities") and identity-first language ("disabled people") to honor preferences: <https://educationonline.ku.edu/community/person-first-vs-identity-first-language>.

³ CDC Disability Data (Adults 18+): <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/washington.html>; WSBA Study: <https://www.wsba.org/docs/default-source/about-wsba/diversity/factsheetfordiversity-disabilitiesimpairments.pdf?sfvrsn=b75638f10>; 2019 Washington Division of Vocational Rehabilitation Report: <https://www.dshs.wa.gov/sites/default/files/dvr/2019CSNAFinal.pdf>. See also Attachment A.

⁴ Civil Legal Needs Study (2015): https://ocla.wa.gov/wpcontent/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.

⁵ National Center for Access to Justice: Disability Access Index (2020): <https://ncaj.org/state-rankings/2020/disability-access/about-justice-index>.

Fully describe and quantify expected impacts on state residents and specific populations served:

Disability is the largest minority group in the nation,⁶ and all Washingtonians with disabilities will benefit from this proposal, which aims at improving the legal system’s responsiveness to the needs of people with disabilities. Like other protected classes, how disabled people themselves identify and how others identify them vary. These differing perspectives on “disability” reflect a subjective construction that only approximates the objective reality people with disabilities experience. Due to the diversity of experiences described under the rubric of “disability”, it can be difficult to attribute clean numbers to exactly how many people will ultimately be impacted by improvements to our legal system. But if we look closely at individual aspects of the legal system, and the affected demographic, the scope of the potential impact is dramatic. The Center for Disease Control and Prevention documents that 22 percent of Washingtonians have a disability involving mobility, cognition, independent living, hearing, vision, and self-care.⁷ These metrics do not include mental illness, which according to the National Institute of Mental Health, impacts 21 percent of adults in any given year, and notably affects 30.6 percent of young adults from 18-25 each year.⁸ Thus legal system reforms that affect this population will have a distinct impact beyond those persons with physical- and sensory-defined disabilities.

Explain what alternatives were explored by the agency and why they were rejected as solutions:

There is no current program or service in place to provide such expansive guidance to all entities and individuals working in the justice system who are dealing with disability issues. The AOC has a program manager who is available on request to provide ADA guidance to individual courts, although it is not a primary duty of that position. There is no programmatic structure, knowledge base, or set of best practices to support and empower individual court jurisdictions to address the needs of their county and city residents who seek justice or are in the justice system as witnesses, defendants, and legal professionals.

What are the consequences of not funding this request?

Disability affects persons across all racial groups, gender identities, and sexual orientation. The Conference of Chief Justices predicts that state courts are likely to experience an increase in the number of adult court users with disabilities, and both the National Center for State Court’s Center for Elders and the Courts and the American Bar Association have recommended that courts plan for accommodations for aging court users living with disabilities. Problem identification, remedial resources preparation, service delivery best practices training, and removal of bias against persons with disabilities is needed to address the impact on our courts. Additionally, communities of color are at risk of a disproportionately severe adverse impact if the statewide court system remains inconsistently compliant with ADA requirements and wanting in the full physical and programmatic access the study would be designed to address. The ability of our courts and legal profession to be fully inclusive of a protected class of citizens continues to be at stake, and there are grave social consequences, fiscal and systemic, when disabled individuals continue to be marginalized by our courts and the justice system.

Is this an expansion or alteration of a current program or service?

It is not. As noted above, the type of comprehensive study we envision is unprecedented.

⁶ <https://www.dol.gov/agencies/odep/publications/fact-sheets/diverse-perspectives-people-with-disabilities-fulfilling-your-business-goals>.

⁷ CDC Disability Data (Adults 18+): <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/washington.html>; describing the prevalence of the following disabilities, “Mobility: Serious difficulty walking or climbing stairs; Cognition: Serious difficulty concentrating, remembering, or making decisions; Independent living: Serious difficulty doing errands alone, such as visiting a doctor’s office; Hearing: Deafness or serious difficulty hearing; Vision: Blind or serious difficulty seeing, even when wearing glasses; Self-care: Difficulty dressing or bathing.”

⁸ [https://www.nimh.nih.gov/health/statistics/mental-illness#:~:text=Prevalence%20of%20Any%20Mental%20Illness%20\(AMI\),-Figure%201%20shows&text=In%202020%2C%20there%20were%20an,%25\)%20than%20males%20\(15.8%25\)](https://www.nimh.nih.gov/health/statistics/mental-illness#:~:text=Prevalence%20of%20Any%20Mental%20Illness%20(AMI),-Figure%201%20shows&text=In%202020%2C%20there%20were%20an,%25)%20than%20males%20(15.8%25)).

Decision Package expenditure, FTE and revenue assumptions:

The Task Force will be comprised of approximately 25 members, from various disability and legal perspectives. All members will serve as volunteers, but the Task Force requires staff assistance and consultant expertise to prioritize its work plan, conduct research, and develop a report and recommendations to advance disability justice in the courts.

Staffing Assumptions

Beginning July 1, 2023, AOC requires one-time salary, benefits, and associated standard costs for a Senior Court Program Analyst to provide meeting coordination, outreach, grant writing, implementation, and other tasks related to coordinating the Disability Justice Task Force's study

Other Non-Standard Costs**Contracts (Object C)**

Research Report Consultants. The Task Force requests funding for 2 years of staffing and consulting support to conduct a comprehensive study about disability access and bias within the courts. The consultants' work will be guided by the benchmarks of the National Center for Access to Justice Study, qualitative research involving disabled litigants and lawyers, current equity and inclusion standards, and a review of other states' improvements.

- *Research Support (1 Full-Time research coordinator, 2-3 Part-Time research assistants).* To coordinate research and assist with discrete aspects of the report (e.g., outside expert consultants, pilot projects and research development). \$300,000
- *Community Consultant Stipends & Accommodations.* Stipends and accommodations for impacted people contributing to the report (e.g., focus groups, ASL interpreting, interviews, and surveys). \$100,000

Goods and Services (Object E)

Meeting Accommodations/Access. The Task Force will meet remotely, but it will require funding for disability accommodations and language access (e.g., interpretation and translation). At present, we do not anticipate any travel or equipment budget. \$50,000

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	
Expenditures by Object							
A Salaries and Wages	101,100	101,100					
B Employee Benefits	32,200	32,200					
C Personal Service Contract	100,000	300,000					
E Goods and Services	18,800	38,800					
G Travel	2,500	2,500					
J Capital Outlays	6,400	1,600					
T Intra-Agency Reimbursements	33,000	33,000					
Total Objects	294,000	509,200					
Staffing							
Job Class	Salary	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
SENIOR COURT PROGRAM ANALYST	101,100	1.00	1.00				
Total FTEs		1.00	1.00				

Explanation of standard costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

How does the package relate to the Judicial Branch principal policy objectives?

The Task Force, through the proposed comprehensive study and resultant recommendations for best practices, will work toward advancing core Judicial Branch policy objectives of fair and effective administration of justice, accessibility, and access to necessary representation. The information gained from this study and report to the Supreme Court is intended to redress deficiencies in access to justice programs and services operated by state government entities that are currently interacting with individuals with disabilities. Numerous state executive branch entities have administrative proceedings of a legal nature that are accessed by individuals with disabilities, and state courts must deal with guardianship issues where the participation of an individual with a disability is essential to the delivery of services that protect the most vulnerable in our population. We anticipate that the contemplated report and recommendations would have positive collateral impacts on these entities, too, because of the potential that best practices could be portable.

Are there impacts to other governmental entities?

The Task Force Steering Committee has consulted with the Office of Administrative Hearings (OAH) about the proposed comprehensive study and underlying funding request, and the agency generally supports this proposal. OAH recognizes the overlapping interests between OAH and the judiciary in enhancing court access and the potential for shared benefits from the comprehensive study and resulting report and recommendations.

Stakeholder response:

The Task Force Steering Committee has secured the support of the following non-government organizations for the proposed comprehensive study and related items under this request:

- Access to Justice Board
- Allies in Advocacy
- American Civil Liberties Union of Washington
- Autistic Self Advocacy Network
- Bazelon Center for Mental Health Law
- Carl Maxey Center
- Central Washington Disability Resources
- Chief Seattle Club
- Coelho Center for Disability Law, Policy, and Innovation at Loyola Law School in Los Angeles, California
- Columbia Legal Services
- Communities of Color Coalition
- Disability Action Center Northwest
- Disability Empowerment Center
- Disability Rights Colorado
- Disability Rights Washington
- Governor's Committee on Disability Issues and Employment
- Greater Spokane Progress
- Health and Justice Recovery Alliance
- INDEX - Inland Northwest Disability Experience
- Justice in Aging
- Latina/o Bar Association of Washington
- Look2Justice
- National Alliance on Mental Illness – Seattle
- National Alliance on Mental Illness – Spokane
- National Alliance on Mental Illness - Thurston-Mason
- National Disability Rights Network
- Northwest Fair Housing Alliance

- Northwest Health Law Advocates
- Northwest Immigrant Rights Project
- Office of Developmental Disability Ombuds
- Spectrum Institute
- TeamChild
- The Arc of Washington
- University Center for Excellence in Developmental Disabilities
- Washington Attorneys with Disabilities Association
- Washington Civil and Disability Advocate
- Washington State Disability Inclusion Network
- Washington State Developmental Disability Council
- Washington State Independent Living Council

Are there legal or administrative mandates that require this package to be funded?

This proposal is essential to the creation of the Disability Justice Task Force by the Washington Supreme Court, for thoroughgoing and consistent ADA, WLAD, GR 33 compliance, and toward RCW 2.56.210's mandate to maintain a Reasonable Accommodations Program.

Does current law need to be changed to successfully implement this package?

No.

Are there impacts to state facilities?

No, but the contemplated study may identify impacts.

Are there other supporting materials that strengthen the case for this request?

See Attachment A.

Are there information technology impacts?

No.

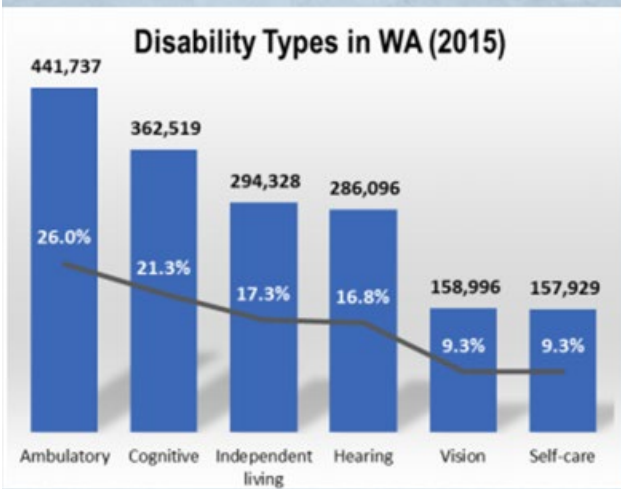
Agency Contacts

Christopher Stanley, 360-357-2406, christopher.stanley@courts.wa.gov

Angie Wirkkala, 360-704-5528, angie.wirkkala@courts.wa.gov

Appendix A

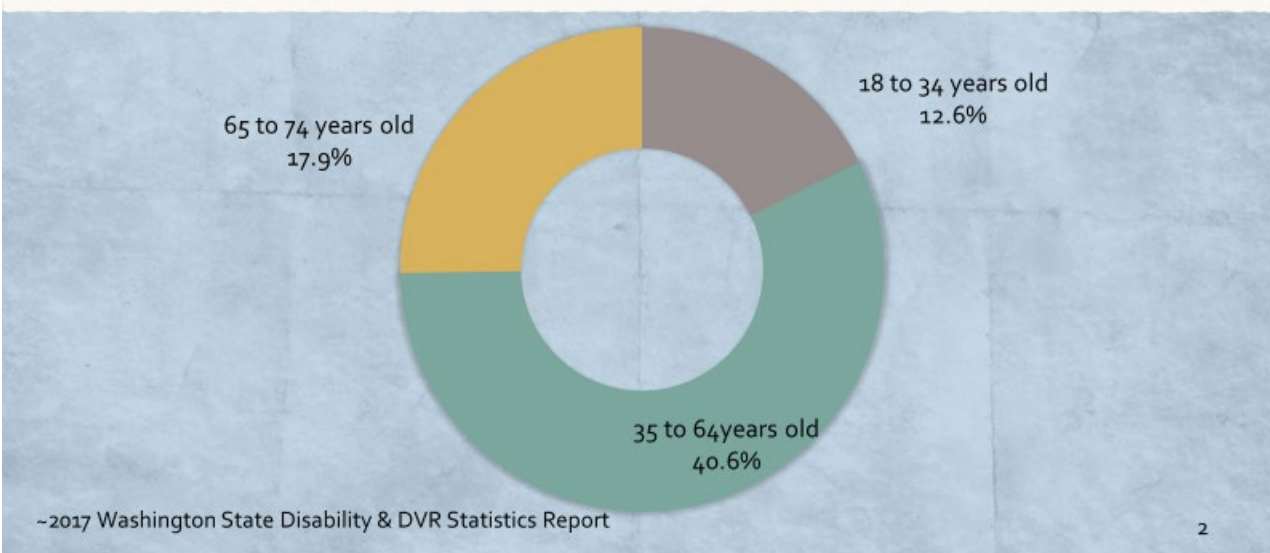
Prevalence of Disability in WA



- American Community Survey (ACS) data for 2017 show that 942,318 individuals with disabilities reside in Washington State, a +40,000 increase over the 2015 numbers.
- The rate among disability types has remained unchanged since 2014.
- Adults with disabilities represent over 22% of the State's population.

~DVR 2019 Comprehensive Statewide Needs Assessment Report, [2019 Comprehensive Statewide Needs Assessment \(wa.gov\)](#)

Prevalence of Disability in WA



~2017 Washington State Disability & DVR Statistics Report



WSBA Diversity

Demographic Highlights for WSBA Members with Disabilities/Impairments

In 2012, the Washington State Bar Association conducted a statewide demographic survey of its membership. The goals of this effort were to understand the composition of those in the profession and examine career transitions. At the time of the study, WSBA membership totaled more than 35,000 attorneys. Data was collected and analyzed from active, inactive, and former members (those who ceased membership in the last five years). Seven diversity groups were identified and data was analyzed on group characteristics and job setting experiences. These groups included **persons with disabilities**, racial minorities, older members (40+), sexual minorities, women, primary parents and caregivers to older or disabled adults, and military personnel and veterans.

Quick Facts

For members with disabilities/impairments

- 15%** Report being a parent or caregiver
- 12%** Are women
- 11%** Report being in the military or a veteran
- 17%** Report being 40 years or older
- 8%** Report being a sexual minority

Membership

Members with a disability/impairment represent **21%** of the Washington State Bar Association membership**

Members with a disability/impairment report an average age of 53 years.

18% of all WSBA members practice outside of Washington. Of those, **15%** report having a disability/impairment.

Practice

Average years licensed for members with a disability/impairment is **21** years.

Employment Settings for Members with a Disability/Impairment

(includes active and inactive members)

Group Law Firm	27.5%
Solo Practice	24%
Govt., Fed./State/ Local/Tribal	18.1%
Retired	4.4%
Corporate	3.1%
Business, Outside Law	5%
Unemployed	3.1%
Public Interest/Other	
Nonprofit	3.1%
Education	1.9%
Public Interest, Legal	5.6%
Superior/District courts	1.9%
Mediation	*
Federal Court	*
Appellate Court	1.2%
Local/Municipal Court	*

* less than 1%

**The membership study used a broader definition than what is commonly utilized to collect Census data.

Key Findings

- **21%** of WSBA members fall within a protected class because they have a disability/impairment.
- Members with a disability/impairment experienced **social barriers** at a rate higher than all other diversity groups.
- **47%** of active members who report a disability/impairment are solo practitioners.
- Congressional Districts 3 and 6 have the second highest percentage of members reporting a **disability/impairment**.

The profession is changing. The business interests of attorneys, employers, and clients call for more diverse legal representation across the state. WSBA is committed to supporting and advancing diversity and inclusion in the profession. In demonstration of its ongoing commitment, WSBA seeks to:

- Ensure a more diverse Continuing Legal Education faculty that better reflects its membership and the clients they serve.
- Educate members statewide to develop cultural competency skills critical to achieving inclusion for this population.

CACI No. 188 (2022 Edition Judicial Council of California Civil Jury Instruction (CACI) adopted Nov 2021).

<https://www.bing.com/ck/a?!&p=bfc945a98a20101ca66c3046d9faff3275c44bee9b1cb333e92f647d2edd023ajmltdHM9MTY1MjQwMDAwNiZpZ3VpZD1jZGQwMDQ4Zi1iMmWY1LTRkMmEtODAyYS1jYWRkNjI5ODE2YTkmaW5zaWQ9NTE2Mg&ptn=3&fclid=a5a07ccb-d24f-11ec-9fd8-6a8ca447797f&u=a1aHR0cHM6Ly93d3cuanVzdGlhLmNvbS90cmIhbHMtbGl0aWdhZGlubi9kb2NzL2NhY2kvMTAwLzExOC8&ntb=1>

118. Personal Pronouns

One of the [parties/witnesses/attorneys/specify other participant in the case] in this case uses the personal pronouns [specify the person’s pronouns]. You may hear the judge and attorneys refer to [name of person] using the pronouns: [specify the person’s pronouns].

New May 2020

Directions for Use

It is the policy of the State of California that intersex, transgender, and nonbinary people are entitled to full legal recognition and equal treatment under the law. In accordance with this policy, attorneys and courts should take affirmative steps to ensure that they are using correct personal pronouns. To further this policy, these instructions have been expanded to include “nonbinary pronoun” wherever appropriate. Although the advisory committee acknowledges a trend for the singular use of “they,” “their,” and “them,” the committee also recognizes these pronouns have plural denotations with the potential to confuse jurors. For clarity in the jury instructions, the committee recommends using an individual’s name rather than a personal nonbinary pronoun (such as “they”) if the pronoun could result in confusion.

The court should consult with the attorneys in the case before reading this instruction to the jury. The court should also consult with the individual whose pronouns are being discussed to ensure the court acts in a way that protects the individual’s dignity and privacy.

Sources and Authority

- Gender Recognition Act. Stats. 2019, ch. 853 (SB 179).
- “Sex” Defined. Gov. Code, § 12926(r)(2).
- “Gender Expression” Defined. Cal. Code Regs., tit. 2, § 11030(a).
- “Gender Identity” Defined. Cal. Code Regs., tit. 2, § 11030(b).

119-199. Reserved for Future Use

FILED
 SUPREME COURT
 STATE OF WASHINGTON
 June 9, 2022
 BY ERIN L. LENNON
 CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED
 AMENDMENT TO CODE FOR JUDICIAL
 CONDUCT (CJC) CANON 2, RULE 2.3 CMT [3]—
 BIAS, PREJUDICE, AND HARASSMENT

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O R D E R

NO. 25700-A-1440

Superior Court Commissioner Jonathon Lack, having recommended the adoption of the proposed amendment to Code for Judicial Conduct (CJC) Canon 2, Rule 2.3 cmt [3]—Bias, Prejudice, and Harassment, and the Court having considered the proposed amendment, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the proposed amendment as attached hereto is adopted.
- (b) That the proposed amendment will be published in the Washington Reports and will become effective September 1, 2022.

Page 2

ORDER

IN THE MATTER OF THE PROPOSED AMENDMENT TO CODE FOR JUDICIAL
CONDUCT (CJC) CANON 2, RULE 2.3 CMT [3]—BIAS, PREJUDICE, AND
HARASSMENT

DATED at Olympia, Washington this 9th day of June, 2022.


González, C.J.

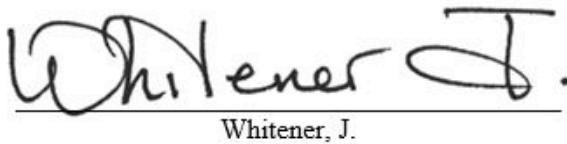

Johnson, J.

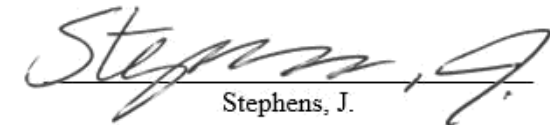

Gordon McCloud, J.


Madsen, J.


Yu, J.


Owens, J.


Whitener, J.


Stephens, J.

CJC 2.3

BIAS, PREJUDICE, AND HARASSMENT

(A)-(D) [Unchanged.]

Comments

[1]-[2] [Unchanged.]

[3] Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4]-[5] [Unchanged.]

FILED
SUPREME COURT
STATE OF WASHINGTON
October 13, 2022
BY ERIN L. LENNON
CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED
TECHNICAL AMENDMENT TO ER 1101—
APPLICABILITY OF RULES

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ORDER

NO. 25700-A-1471

Washington State Supreme Court Rules Committee Staff, having recommended the adoption of the suggested technical amendment to ER 1101—Applicability of Rules, and the Court having considered the suggested technical amendment, and having determined that the suggested technical amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

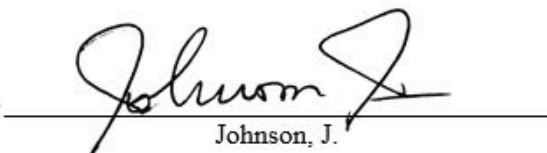
ORDERED:

- (a) That the suggested technical amendment as attached hereto is adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested technical amendment will be expeditiously published in the Washington Reports and will become effective upon publication.

Page 2
ORDER
IN THE MATTER OF THE SUGGESTED TECHNICAL AMENDMENT TO ER 1101—
APPLICABILITY OF RULES

DATED at Olympia, Washington this 13th day of October, 2022.


González, C.J.


Johnson, J.

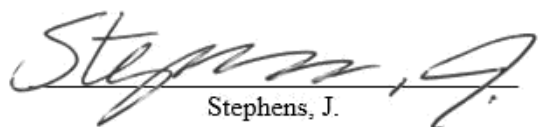

Gordon McCloud, J.

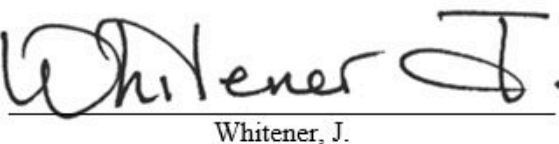

Madsen, J.


Yu, J.


Owens, J.


Montoya-Lewis, J.


Stephens, J.


Whitener, J.

GENERAL RULE 9
RULE AMENDMENT COVER SHEET
PROPOSED AMENDMENT TO RULES OF EVIDENCE (ER) 1101

1. **Proponent:** J Benway, WSSC Rules Committee Staff
2. **Spokesperson & Contact Info:** J Benway, AOC Principal Legal Analyst, Jamanda.benway@courts.wa.gov, 360-357-2126
3. **Purpose of Proposed Rule Amendment:**

Recent legislation repealed most of the statutes pertaining to protection orders and consolidated them into a single chapter, chapter 7.105 RCW. This impacts ER 1101, Applicability of Rules, which lists proceedings during which the evidence rules need not apply. Subsection (c)(4), which specifically pertains to applications to protection orders, needs to be updated to reflect the new legislation.
4. **Is Expedited Consideration Requested?** Yes, because the legislation is already in effect, as of July 1, 2022.
5. **Is a Public Hearing Recommended?** No, because this is a technical change that is required by legislation.

ER 1101
APPLICABILITY OF RULES

(a) Courts Generally. Except as otherwise provided in section (c), these rules apply to all actions and proceedings in the courts of the state of Washington. The terms "judge" and "court" in these rules refer to any judge of any court to which these rules apply or any other officer who is authorized by law to hold any hearing to which these rules apply.

(b) Law With Respect to Privilege. The law with respect to privileges applies at all stages of all actions, cases, and proceedings.

(c) When Rules Need Not Be Applied. The rules (other than with respect to privileges, the rape shield statute and ER 412) need not be applied in the following situations:

(1) *Preliminary Questions of Fact.* The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104(a).

(2) *Grand Jury.* Proceedings before grand juries and special inquiry judges.

(3) *Miscellaneous Proceedings.* Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims court; supplemental proceedings under RCW 6.32; coroners' inquests; preliminary determinations in juvenile court; juvenile court hearings on declining jurisdiction; disposition, review, and permanency planning hearings in juvenile court; dispositional determinations related to treatment for alcoholism, intoxication, or drug addiction under RCW 70.96A; and dispositional determinations under RCW 71.05 and 71.34.

(4) *Applications for Protection Orders.* Protection order proceedings under Chapters ~~7.90, 7.92, 7.94, 10.14, 26.50~~7.105, and 74.34 RCW. Provided when a judge proposes to consider information from a criminal or civil database, the judge shall disclose the information to each party present at the hearing; on timely request, provide each party with an opportunity to be heard; and take appropriate measures to alleviate litigants' safety concerns. The judge has discretion not to disclose information that he or she does not propose to consider.

(d) Arbitration Hearings. In a mandatory arbitration hearing under RCW 7.06, the admissibility of evidence is governed by MAR 5.3.

Gender and Justice Commission

2023 Meeting Dates

Virtual Meetings held via Zoom Videoconference

Contact Avery Miller (Avery.Miller@courts.wa.gov) for Zoom access information.

Date	Time	Location
January 6 th	9:30 AM – 12:00 PM	Zoom Videoconference
March 10 th	9:30 AM – 12:00 PM	TBD
May 5 th	9:30 AM – 12:00 PM	TBD
September 1 st	9:30 AM – 12:00 PM	TBD
November 3 rd	9:30 AM – 12:00 PM	TBD

Please contact Crissy Anderson with any questions at (360) 764-3198 or Crissy.Anderson@courts.wa.gov.