



**Bob Ferguson**  
**ATTORNEY GENERAL OF WASHINGTON**

Administration Division  
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September 30, 2020

*Sent via Email*

Susan L. Carlson, Clerk  
Washington State Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929  
Email: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

**RE: Proposed General Rule 31**

Dear Ms. Carlson:

Thank you for the opportunity to comment on the proposed amendments to GR 31. I write on behalf of the Attorney General's Office. Limiting access to court records is an important policy decision with strong views on both sides of the issue. The Attorney General's Office is not taking a position on the merits of this policy consideration. We are only commenting to point out how this proposed rule would impact the work we do for the Department of Children, Youth and Families.

If the Court decides to move this proposal forward, we ask the Court to consider impacts on access to therapeutic records for parties, guardians ad litem, and counsel in child welfare matters. The Department of Children, Youth, and Families is a party to child welfare matters in therapeutic courts across the state, including family treatment court and baby court. The Attorney General's Office represents the Department statewide in child welfare matters. To ensure that the Department and its counsel have access to therapeutic court records in cases when it is a party and to maintain consistency with GR 22, the following changes could be made to the proposal:

Proposed Amendment: GR 31  
Access to Court Records

(1) Restricted Access to Therapeutic Court Records.

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(1) Unless otherwise provided by statute, court rule, court order, or subsection (1)(A) below, all court records shall be open to the public for inspection and copying upon request. The clerk of the court may assess fees, as may be authorized by law, for production of such records.

(A) Restricted Access. Risk/needs assessments, chemical dependency assessments, domestic violence assessments, mental health and sexual deviancy assessments, treatment provider reports and compliance reports, presentence reports, probation compliance reports, self-help support group attendance (e.g., AA or NA), and any other compliance reports used in therapeutic courts shall only be accessible as provided in (2) herein.

(2) Unless otherwise provided by statute, court rule or court order, the following persons shall have access to the Restricted Access records listed in (1)(A) above:

(A) Judges, commissioners, magistrates, other court personnel, probation counselors, defendants, defendant's attorney of record, and the prosecuting attorney parties of record, parties' counsel of record, court appointed Title 13 guardians ad litem, and counsel of record for court appointed Title 13 guardians ad litem if any.

(3) Upon receipt of a written motion requesting access to these types of records by some other person, the court may allow access to court records restricted under this rule, or relevant portions of court records restricted under this rule, if the court finds no statute or other court rule prohibits access, and the public interest in granting access or the personal interest of the petitioner seeking access, outweighs the privacy and safety interests of the defendant parties or other persons mentioned in the records.

(A) If the court grants access to court records restricted under this rule, the court may enter such orders necessary to balance the personal privacy and safety interests of the defendant parties or other persons with the public interest in access.

Thank you for considering our comments.

Sincerely,



KRISTEN K. MITCHELL  
Deputy Attorney General

KKM/eg

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Linford, Tera](#)  
**Cc:** [Tracy, Mary](#)  
**Subject:** FW: Proposed General Rule 31  
**Date:** Wednesday, September 30, 2020 3:32:32 PM  
**Attachments:** [Supreme Court Letter Re Proposed GR 31 Changes 093020.pdf](#)

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**From:** Ganga, Elaine L (ATG) [<mailto:elaine.ganga@atg.wa.gov>]  
**Sent:** Wednesday, September 30, 2020 3:22 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** Mitchell, Kristen (ATG) <kristen.mitchell@atg.wa.gov>  
**Subject:** Proposed General Rule 31

Ms. Carlson:

Attached is a letter from Deputy Attorney General Kristen Mitchell regarding proposed amendments to General Rule 31.

Please let me know if you have any questions.

Thank you,

*Elaine Ganga*

*Executive Assistant*

*Office of the Attorney General*

*Administration Division*

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