



WASHINGTON STATE
ASSOCIATION OF
COUNTY CLERKS

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April 30, 2021

Clerk of the Supreme Court
supreme@courts.wa.gov

Re: Comment on **Suggested Amendments To General Rule (Gr) 22 Access To Family Law And Guardianship Records**

Dear Clerk and Supreme Court Rules Committee:

The Washington State Association of County Clerks is providing comment on the suggested change to GR 22. We very much agree and appreciate that the intent of these suggested edits to the rule are intended to incorporate the new RCW 11.130 guardianship cases into the protections for confidential information allowed by GR 22.

Our comment relates to information shared in the coversheet that describes the intent of the rule change. The cover sheet describes that the rule change is in part intended to seal the letters of office. It describes the change as follows:

Suggested changes with respect to Personal Identifiers protection. With the repeal of RCW 26.10, the volume of minor guardianship cases under Title 11 is expected to greatly increase. The UGA states that the "Letters of Office" are the record issued by the court that certifies a guardian's authority to act. See RCW 11.130.010 (16). Pursuant to the terms of the UGA, the authority to act must expire on the minor's attainment of majority. See RCW 11.130.215 (7) "(7) An order granting guardianship for a minor must direct the clerk of the court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday."

A minor's birthdate is a personal identifier entitled to protection under state law. The suggested changes to GR 22 provide a mechanism to seal the Letters of Office to maintain the confidentiality of this information.

Letters of office by their very nature are the most public of court documents. They are given to banks, schools, government offices, medical providers, and many other of places. They really cannot be sealed documents and also be widely distributed. This would at a minimum violate provisions of GR 22(h) regarding access to sealed documents.

We certainly understand there are conflicting mandates here: Statute requires the letters to have an expiration date which by law is also the child's 18th birthday; GR22 requires that the date of birth of a minor not be displayed in a public-facing document, and yet letters need to be shared many times over many years to many agencies to accomplish their intent. So, by law the letters of office have a conflict. However, sealing the letters is not the solution, and will not serve the parties well. Should any agency call to verify the letters of any clerk's office, if those letters are sealed, clerks would not be able to verify the letters or provide copies to anyone trying to independently verify the legitimacy of the document presented to them.

The form letters of office at this point list an "expiration date." They do not label the date as the child's 18th birthday, but it is. (It does not take much to figure out that the date is likely the child's birthday.) The rule as written does not require that the letters be sealed, but we submit comment to the court so that you know that the cover sheet describes intent to seal them and sealing them is not logical. We don't have a clear suggestion on how to address this issue, other than to seek a legislative remedy defining a different date of expiration for the letters.

We also point out that there is not a definition in the rule of "restricted personal identifier" which seems to be an important missing component of the rule and would help the reader. Also the below provision in the rule is not correct or clear as currently stated. In fact, "...a document containing one or more restricted personal identifier by statute" is not a "Sealed document containing Restricted Personal Identifier." The two things are not the same. Until and if a filing party puts a cover sheet on a document and files it, no document will be sealed.

(9) "Sealed documents containing Restricted Personal Identifiers" means a document containing one or more Restricted Personal Identifier required by statute.

We appreciate your attention to these comments and offer to work with you or others on editing these sections of the rule if that is appropriate. Please contact Ruth Gordon (rgordon@co.jefferson.wa.us) or myself (tfitzgerald@spokanecounty.org) should you have any questions about this.

Sincerely,



Timothy Fitzgerald

Spokane County Clerk and WSACC President

cc: Stacey Johnson, AOC
Joy Moore, AOC

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: WSACC GR 22 Comments Letter
Date: Friday, April 30, 2021 11:48:46 AM
Attachments: [2021_04_30_11_04_03.pdf](#)

From: Fitzgerald, Timothy W. [mailto:TFITZGERALD@spokanecounty.org]
Sent: Friday, April 30, 2021 11:47 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Moore, Joy <Joy.Moore@courts.wa.gov>; Johnson, Stacey <Stacey.Johnson@courts.wa.gov>; Ruth Gordon <rgordon@co.jefferson.wa.us>; Barbara Miner <Barbara.Miner@kingcounty.gov>
Subject: WSACC GR 22 Comments Letter

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Dear Clerk of the Supreme Court,

Attached is a letter from the Washington State Association of County Clerks providing comments on GR 22. If there are any questions, our Association points of contact are Ruth Gordon, Jefferson County Clerk (360-385-9128), Barb Miner, King County Clerk (206-477-0777) and myself. My contact information is in the signature block below. Thank you for your attention to this matter.

Respectfully, Tim

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