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April 27, 2022

Sent via Electronic Mail

Erin L. Lennon, Clerk
Washington State Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929
Email: supreme@courts.wa.gov

RE: Order Number 25700-A-1363: Proposed Changes to General Rule 22 - Access to Family Law and Guardianship Court Records

Dear Ms. Lennon:

Thank you for the opportunity to comment on the proposed amendments to the General Rule (GR) 22 regarding access to therapeutic court records. I am writing on behalf of the Attorney General's Office. GR 22 addresses access to family law and guardianship court records. As currently drafted, GR 22 applies only to family law and guardianship cases filed under listed statutes and does not apply to dependency and termination proceedings under chapter 13.34 RCW. *See* GR 22(b)(2). However, the proposed changes to the rule could be interpreted to apply to matters under chapter 13.34 RCW. While we generally support the reasons for the proposed changes, we respectfully request that the amendments clarify or explicitly state that GR 22 does not apply to dependency and termination proceedings under chapter 13.34 RCW.

We understand that the purpose of the amendments to GR 22 is to restrict access to therapeutic court records to protect individual privacy and encourage full participation in these courts. However, records for chapter 13.34 RCW proceedings are already protected from disclosure under RCW 13.50.100 and the current GR 22(c)(3). Current GR 22(e)(2) requires that reports to the court in family law and guardianship cases be filed as two separate documents, one public and one sealed. The proposal would extend this process to "therapeutic court cases" defined in GR 22(b)(9) as "any case in which a party is receiving treatment pursuant to a therapeutic court program under chapter 2.30 RCW." The definition of "therapeutic court cases" appears to extend to chapter 13.34 RCW proceedings that take place in therapeutic courts, including family dependency treatment court and family drug court. *See* RCW 2.30.010.

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Because chapter 13.34 RCW proceedings are already protected from disclosure, following GR 22 procedures is unnecessary to protect personal privacy. This proposal could create uncertainty about whether the GR 22 filing processes would apply or whether current processes would continue for chapter 13.34 RCW proceedings. These questions may burden courts with monitoring the cases to ensure filing of correct Cover Sheets. To improve clarity and for consistency with existing law, we suggest amending proposed GR 22(b)(9) to say: “‘Therapeutic court cases’ means any case in which a party is receiving treatment pursuant to a therapeutic court program under chapter 2.30 RCW, other than proceedings under chapter 13.34 RCW.” This revision will harmonize proposed amended GR 22 with existing law and will not frustrate the purpose of the proposed revisions to protect personal privacy and not unduly burden the ongoing business and responsibilities of the courts.

Thank you for considering our comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kristin Beneski". The signature is fluid and cursive, with the first name "Kristin" and last name "Beneski" clearly distinguishable.

KRISTIN BENESKI
First Assistant Attorney General

KB/kw

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: AGO Comments on Proposed Amendments
Date: Wednesday, April 27, 2022 4:13:30 PM
Attachments: [Comment on Proposed Amendments to CR 3.1, CR 16, CR 26, CR 77.pdf](#)
[Comment on Proposed Amendments to GR 22.pdf](#)

From: Warren, Kim A (ATG) [<mailto:Kim.Warren@atg.wa.gov>]
Sent: Wednesday, April 27, 2022 3:26 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: AGO Comments on Proposed Amendments

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Good afternoon,

Please find attached comments from the Attorney General's Office on proposed amendments. Please let me know if you have any questions.

Best regards,

Kim Warren

Executive Assistant

Administration Division

Attorney General's Office