

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Comment on Proposed Changes to APR 28 from LAARK (Legal Advice and Referral for Kinship Care)
Date: Tuesday, April 25, 2023 2:50:55 PM
Attachments: [image002.png](#)

From: Celeste Miller <celestem@kcba.org>
Sent: Tuesday, April 25, 2023 2:46 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Changes to APR 28 from LAARK (Legal Advice and Referral for Kinship Care)

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

LAARK

Legal Advice And Referral for Kinship Care

April 25, 2023

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

With a copy to: supreme@courts.wa.gov

To the Clerk of the Supreme Court:

As attorneys who talk with kinship caregivers interested in filing for minor guardianship for children in their care, we are writing to voice our strong support for proposed rule changes to Admission and Practice Rule (APR) 28 that would allow Limited License Legal Technicians to provide legal services on minor guardianship cases. We do not believe that the minor guardianship cases LLLTs are allowed to work on should be limited to those arising out of familial relationships. We believe that the proposed language “agreed or default minor guardianships or guardianships arising out of a familial relationship” is confusing and could be interpreted as a limit to cases where the guardian is related to the child. We do not want this limitation, since there are proposed guardians who are family friends or fictive kin and they would be arbitrarily excluded from the LLLTs scope. We believe that the above language is intended to mean *agreed or default minor guardianships or adult guardianships arising out of a familial relationship*, based on the GR 9 Cover Sheet submitted by the LLLT Board where they stated,

“Effective January 1, 2021, the Washington state legislature repealed the nonparental custody statute for minors (RCW 26.10 *et seq.*) and replaced it with RCW 11.130.185 *et seq.* (Article 2), the Uniform Guardianship Act – minors. **Guardianships for incapacitated adult children arising out of a familial relationship** (emphasis added) are now covered by RCW 11.130 Article 3. To accommodate the change in law, the LLLT Board’s suggested amendments propose to strike the provisions in APR 28 Reg. 2B referencing “nonparental and third party custody” and replace those terms with provisions authorizing LLLTs to provide services under the new statute, RCW 11.130 *et seq.*, for “agreed and default minor guardianships or guardianships arising out of a familial relationship.”

If the LLLT Board did not intend to include adult guardianships of incapacitated adult children arising out of a familial relationship in the scope of LLLT work, we propose that the language solely state “agreed or default minor guardianships.”

The Legal Advice and Referral for Kinship (LAARK) program provides free legal advice to grandparents, aunts, uncles, and other relatives and family friends who step in to care for children when parents are unable to do so. In Washington, there are 43,000 children being raised by kin. [\[1\]](#)

LAARK is a new program funded by the Office of Civil Legal Aid and housed at the King County Bar Association. Since launching in October 2022, we have assisted nearly 90 kinship caregivers from across the state, with the number of referrals growing each week. In many cases, the children in need have never had contact with the child welfare system at all. And in some cases, Child Protective Services (CPS) has investigated the parents, identified serious safety concerns but because the children are living with kin, declined to open a case or file for dependency. Our clients are then faced with filing for minor guardianship on their own to protect the children, with orders for custody and decision-making.

The need for LLLTs to help caregivers petition for minor guardianship is urgent. Due to the eviction crisis, impacts of COVID and the law change from non-parental custody to minor guardianship, few volunteer lawyer programs help with these cases. Most family law lawyers are not taking these cases. Moreover, filing even an uncontested case is an arduous process: at least eight court forms are required to start a case and serving the parents is often challenging. The caregivers we speak to, often senior citizens who had no plans of ever raising children again, are overwhelmed by the paperwork burden.

Kinship caregivers are poorer than average and most cannot afford attorneys. Kinship caregivers report a median income between \$30,000-\$39,999, which is lower than Washington State’s 2018 median income of \$73,294. Kinship caregivers over 55 are more likely to have income below the \$30,000 to \$39,999 range than kinship caregivers overall. [\[2\]](#)

Petitioners for minor guardianship are also more likely to be people of color. According to the Census Bureau, Black/African Americans make up 4.4% of Washington’s population. Yet 30% of kinship caregivers in Washington are Black/African American. American Indian and Alaska Native people make up 1.9% of the state’s population, but 13% of the state’s kinship caregivers. These disparities due to systemic racism further support the need for LLLTs to accept Minor Guardianship cases.

LAARK is grateful to OCLA to be funded for two staff attorneys and one legal assistant, but the need for assistance is much greater. Allowing LLLTs to take these cases would help serve caregivers whose legal needs are not being met.

Sincerely,

Kerry Clayman
Staff Attorney, LAARK

Celeste Miller
Statewide Kinship Care Legal Aid Coordinator & LAARK Supervisor

Catherine West
Staff Attorney, LAARK

Footnote 1: Grandfamilies.org data from the United Census Bureau, the Annie E. Casey Foundation, and the Adoption and Foster Care Analysis Reporting System.

Footnote 2: Partners For Our Children, Washington State Department of Children, Youth and Families, & DSHS Aging and Long-Term Support Administration. (2020). Kinship Care in Washington State – 2020. Available at <https://www.dshs.wa.gov/altsa/home-and-community-services-kinship-care/kinship-care>

Celeste E. Miller (she/her)

Statewide Kinship Care Legal Aid Coordinator

KING COUNTY BAR

(206) 267-7100

Direct: (206) 267-7073

1200 5th Ave, Suite 700
Seattle, WA 98101

CONFIDENTIALITY STATEMENT: The foregoing message contains information that is protected by the attorney-client privilege. If this message was sent to you in error, any use, disclosure or distribution of its contents is prohibited. If you receive this message in error, please call King County Bar Association at 206-267-7100, and delete this message without copying it. Thank you.

^[1] Grandfamilies.org data from the United Census Bureau, the Annie E. Casey Foundation, and the Adoption and Foster Care Analysis Reporting System.

^[2] Partners For Our Children, Washington State Department of Children, Youth and Families, & DSHS Aging and Long-Term Support Administration. (2020). Kinship Care in Washington State – 2020. Available at <https://www.dshs.wa.gov/altsa/home-and-community-services-kinship-care/kinship-care>