

HOW TO REQUEST A CHANGE OF THE VISITATION IN A TITLE 13 GUARDIANSHIP

This guide is meant to provide basic information about changing visitation in a final Title 13 guardianship order. This guide does not contain all the information or documentation you will need. Exact practices and procedures may vary by county. For information regarding your specific county, you may wish to contact the county clerk's office or view the court's website.

This guide does not constitute legal advice and you may need to seek the assistance of a lawyer. You may be able to find further information online such as at WashingtonLawHelp.org. Free or low-cost legal help may also be available in your area

Please note that this information is specific to guardianships established under RCW 13.36. If your guardianship was established under RCW 11.130, do not use this guide.

Who can ask to change the visitation ordered in a Title 13 guardianship?

The guardian or the parent may ask the court to change the visitation of a guardianship order.

How do you ask to change the visitation in a Title 13 guardianship?

A motion for modification of the visitation must be filed with the court, along with an affidavit that outlines the facts supporting the requested change in visitation. An affidavit is a written statement or declaration signed under penalty of perjury.

Where do I file the motion and related documents?

The motion and other documents should be filed in juvenile court in the same county that set up the guardianship. Juvenile court is a division of superior court. Check the court's website or ask at the courthouse where juvenile court is located. Sometimes it is in a different building than the rest of superior court.

You should make copies of the documents you file to keep for your records.

Do I have to serve anyone with a copy of the motion?

Yes, notice and a copy of the motion and affidavit must be served on all parties to the guardianship. This includes the Department of Children, Youth, and Families (DCYF) or other supervising agency.

A "party" to the guardianship could include the following people: the (current) appointed guardian, the Guardian ad Litem/Child Advocate, any Tribe(s) of which the child and/or parent(s) are members or eligible for membership, the child/parent(s), and/or their lawyers.

You may need to contact DCYF and/or the court's Guardian ad Litem/Child Advocate office to ask where/how they accept service.

You will need to comply with the Superior Court Rules (www.courts.wa.gov/court_rules) regarding service, and any service requirements specifically listed in RCW 13.36. You should file a Proof of Service form so the court can see that service is complete. Counties may have specific forms you must use to show proof of service. You can contact your court or local clerk's office to ask for more

This tipsheet was created through the cross-system work of the [Family Well-Being Community Collaborative's \(FWCC\) Guardianship Workgroup](#).

information. You may also find more information or forms online, such as at your court's website or WashingtonLawHelp.org.

Will a lawyer be appointed to represent me for the motion for modification?

The Court must appoint a lawyer or guardian ad litem for the child(ren) in these actions. The court may appoint a lawyer to represent parent(s) or current guardian(s) but is not required to. However, you are free to seek legal advice or hire a lawyer to represent you in these proceedings.

What happens after a motion for modification is filed?

The other parties may file and serve affidavits opposing the requested change in visitation. If the court determines that the affidavits do not establish adequate cause for a hearing, the court will deny the request for modification. If the court finds that adequate cause is shown, the court will set a hearing to decide if there is reason the requested change should not be granted.

NOTE: The forms used in this packet may have changed. Be sure to use the most current forms found online at www.courts.wa.gov/forms. Look for a link for "list of all forms." The Title 13 guardianship forms at the time of this guide's creation are JU 14.0100 – JU 14.0720. You should also check your court's local rules and website for any specific forms they require.

Motion and Declaration for Order Modifying Visitation of Title 13 RCW Guardianship – Checklist

Before you file this document, make sure that you complete the following:

Page 1

- Write the name of the county in the caption on page 1 (Example: County of Pierce).
- Write the name of the case on page 1 (Example: Guardianship of John Doe).
- Write the case number next to “No:” on page 1 (Example: 11-7-1111-1).
NOTE: The case number is the same as the case number on your order establishing the guardianship.
- Fill in Section I. Motion. If you are the party requesting the change, fill in your name and check the appropriate box after your name. Then date and sign in Section I.
- Fill in Section II. Declaration. Fill in your name and then in section 2.1 explain the reasons that visitation should be modified.

Page 2

- In section 2.2, explain what changes you are requesting made to visitation.
- At the end of the form, fill in the city and state where you signed the document. Then fill in the date.
- Sign and print your name.

SUPERIOR COURT OF WASHINGTON
COUNTY OF _____
JUVENILE COURT

Guardianship of:

D.O.B.:

No:

**Motion and Declaration for Order
Modifying Visitation
(MTAF)**

I. Motion

_____ [name], the [] guardian [] mother [] father of the child,
asks the court for an order modifying the visitation provisions in the Order Appointing Title 13 RCW
Guardian entered in this action on _____ [date].

The requesting party further asks the court to appoint a guardian ad litem or attorney for the child.

This motion is based upon the declaration below, and Laws of 2010, ch. 272 § 6.

Dated: _____

Signature of Requesting Party/Lawyer

Print Name

WSBA No.

II. Declaration

I, _____ [name] declare,

2.1 The visitation provisions should be modified because:

Declaration – Checklist

Before you file this document, make sure that you complete the following:

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- Write the case number next to “No:” on page 1 (Example: 11-7-1111-1).

NOTE: The case number is the same as the case number on your order establishing the guardianship.

- Fill in the name of the person making the declaration.
- Fill in the declaration explaining the reasons that visitation should be modified.

Page 2

- At the end of the form, the person making the declaration must fill in the city and state where they signed the document. Then fill in the date.
- The person making the declaration then signs and prints their name.

Notice of Hearing for Adequate Cause Determination – Checklist

Before you file this document, make sure that you complete the following:

Page 1

- Write the name of the county in the caption on page 1 (Example: County of Pierce).
- Write the name of the case on page 1 (Example: Guardianship of John Doe).
- Write the case number next to “No:” on page 1 (Example: 11-7-1111-1).

NOTE: The case number is the same as the case number on your order establishing the guardianship.

- Fill in the names of the parties.
- Fill in the date that the original order regarding visitation was entered.
- Fill in the information regarding the court hearing. Contact the county clerk’s office to inquire about how to obtain a date/time for the court hearing.
- At the end of the form, fill in the date the document was signed.
- Sign and print your name.

**SUPERIOR COURT OF WASHINGTON
COUNTY OF _____
JUVENILE COURT**

Guardianship of:

D.O.B.:

No:

**Notice of Hearing for Adequate
Cause Determination
(NTHG)
Clerk's Action Required**

To the Clerk of Court and to: _____ [name(s)]

1. Please note that the court will be asked to determine if adequate cause exists to modify the visitation provisions of the Order Appointing title 13 RCW Guardian entered in this action on _____ [date] as requested in the motion filed in this case.
2. A hearing has been set for the following date, time and place:
Date: _____ Time: _____ a.m./p.m.
Place: _____ Room/Department: _____
3. This request is based on the motion and declaration for order modifying visitation provisions served on the other parties.
4. If you disagree with any part of the motion, you must respond to the motion in writing before the hearing and by the deadline for your county. At the hearing, the court will consider *Written* sworn affidavits or declarations. Oral testimony may *Not* be allowed. To respond, you must: (1) file your documents with the court; (2) provide a copy of those documents to the judge's or commissioner's staff; (3) serve the other party's attorney with copies of your documents (or have the other party served if that party does not have an attorney); and (4) complete your filing and service of documents within the time period required by the local court rules in effect in your county. If you need more information, you are advised to consult an attorney.
5. If the court determines that adequate cause for hearing the motion is established by the declarations, it will set a date for hearing on an order to show cause why the motion should not be granted.
6. If you do not file opposing declarations or appear at the hearing, the court may enter an order granting the modification requested in the motion.

Dated: _____

Signature of Requesting Party or Lawyer

Print or Type Name

WSBA No.

[Address]

Order re Adequate Cause

This is the order the court is likely to fill out and enter at the hearing where it determines if the filed affidavits establish adequate cause to hear the motion to modify visitation.

Note: You may wish to bring a blank copy of this order to the hearing as a courtesy to the court.

**SUPERIOR COURT OF WASHINGTON
COUNTY OF _____
JUVENILE COURT**

Guardianship of:

D.O.B.:

No:

Order re Adequate Cause
 Denied (ORRACD)
 Granted (ORRACG)
 Hearing Set (ORH)
Clerk's Action Required

I. Adequate Cause

Based upon the motion and declaration for order modifying visitation and on the opposing declarations, if any, the court finds:

- Adequate cause does not exist to hear the motion for order modifying visitation and the motion is denied.
 the requesting party brought the motion in bad faith and the court awards _____
_____ [name(s)] attorney fees in the amount of \$_____ and costs
in the amount of \$_____ as set forth in the Judgment filed separately.
 Adequate cause does exist to hear the motion, and

II. Order to Show Cause

_____ [Name of nonrequesting party/ies] shall appear in person before this court at the place and time below and show cause why the relief requested in the Motion and Declaration for Order Modifying Visitation should not be granted.

Date: _____ Time: _____ a.m./p.m.

Place: _____ Room/Department: _____

If you fail to appear in person, the court may grant the relief requested in the motion.

Dated: _____

Judge/Commissioner

Presented by:

Signature of Requesting Party or Lawyer

Print or Type Name

WSBA No.

[Address]

Signature of Party or Lawyer

Print or Type Name WSBA No.

Signature of Party or Lawyer

Print or Type Name WSBA No.

Signature of Party or Lawyer

Print or Type Name WSBA No.

Signature of Party or Lawyer

Print or Type Name WSBA No.

Signature of Party or Lawyer

Print or Type Name WSBA No.

Signature of Party or Lawyer

Print or Type Name WSBA No.

Order re Motion to Order Modifying Visitation

If the court determined that adequate cause to hear the motion was established, this is the order the court is likely to fill out and enter at the hearing where it decides whether to grant or deny the motion to modify visitation.

Note: You may wish to bring a blank copy of this order to the hearing as a courtesy to the court.

Superior Court of Washington County of _____ <p style="text-align: center;">Juvenile Court</p>
Guardianship of: D.O.B.:

No:
Order re Motion for Order Modifying Visitation
 denied (ORDYMT)
 granted – (ORVS)

I. Basis

- 1.1 The court held a hearing on the motion for order modifying visitation on an order to show cause in this matter on _____ [date].
- 1.2 The following persons were present:
- | | |
|--|---|
| <input type="checkbox"/> Child | <input type="checkbox"/> Child's Lawyer |
| <input type="checkbox"/> Child's Guardian ad Litem | <input type="checkbox"/> Guardian ad Litem's Lawyer |
| <input type="checkbox"/> Title 13 RCW Guardian | <input type="checkbox"/> Title 13 RCW Guardian's Lawyer |
| <input type="checkbox"/> Mother | <input type="checkbox"/> Mother's Lawyer |
| <input type="checkbox"/> Father | <input type="checkbox"/> Father's Lawyer |
| <input type="checkbox"/> DCYF | <input type="checkbox"/> DCYF's Lawyer |
| <input type="checkbox"/> Tribal Representative | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Interpreter for <input type="checkbox"/> mother <input type="checkbox"/> father | |
| <input type="checkbox"/> other _____ | |

II. Findings

- 2.1 The court has jurisdiction over the parties and the subject matter.
- 2.2 Proper notice of this hearing was was not given.
- 2.3 The court found adequate cause to hear the motion.
- 2.4 Modification of Visitation
- There is no basis for modification of visitation as follows:
- _____
- _____

There is a basis for modification of visitation as follows:

III. Order

3.1 The motion for order modifying visitation is denied.

3.2 The court grants the motion for order modifying visitation. The Order Appointing Title 13 RCW Guardian entered in this matter on _____ [date] remains in effect, except for the visitation provisions that are modified as follows:

3.3 Other:

Dated: _____

Judge/Commissioner

Presented by:

Signature

Print Name/Title

WSBA No.

Copy Received; Approved for Entry; Notice of Presentation Waived:

Signature of **Child**

 Signature of Child's Lawyer

Print Name WSBA No.

 Signature of Child's **Guardian ad Litem**

 Signature of Lawyer for the Guardian ad Litem

Print Name

Print Name WSBA No.

 Signature of **Title 13 RCW Guardian**

 Signature of Lawyer for the Title 13 RCW Guardian

Print Name

Print Name WSBA No.

 Signature of **Title 13 RCW Guardian**

 Signature of Lawyer for the Title 13 RCW Guardian

Print Name

Print Name WSBA No.

 Signature of **Mother**

 Signature of Mother's Lawyer

Print Name WSBA No.

 Signature of **Father**

 Signature of Father's Lawyer

Print Name WSBA No.

Signature of **DCYF Representative**

Signature of DCYF Representative's Lawyer

Print Name

Print Name WSBA No.

 Signature of **Tribal Representative**

 Signature

Print Name

Print Name WSBA No.
Lawyer for _____