

# Superior Court

## Notice to the Bar & Public

February 11, 2004

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**ATTENTION Law Office Personnel:** Please ensure that ALL staff, attorneys and non-attorneys are aware of the contents of this notice.

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### Proposed Addition to Local Rules

Below is a proposed addition to the Whatcom County Superior Court's local rules.

#### **WCAR 0.5**

##### **Unsuitable Materials as Exhibits**

Whenever there is presented to the clerk for filing in a cause any paper or other material that is deemed by the clerk to be improper or inappropriate for filing, the clerk shall affix his/her file mark thereto and may forthwith orally apply to the court for a determination of the propriety of filing the material presented. If the court determines that the paper or material should not be made a part of the file, an order shall be entered to that effect and the clerk shall retain the materials as an exhibit in the cause. The court may order that the unsuitable material be sealed, in which event it shall be available for inspection only by order of the court except to the parties or their attorneys of record. Records of proceedings and exhibits attached thereto filed as the record in an appeal of an administrative hearings shall be presumed to exhibits to the file in the Superior Court.

[Effective X/X/04]

Please offer any comments to the Court Administrator not later than March 1, 2004.

#### *Commentary:*

*The suggested need for this rule is being driven by appeals from administrative hearings. The records that come up from those hearings, for filing, are often videotapes, huge transcripts, large plats, etc. Recently all Department of Licensing license revocation hearings "records" consist of noting but videotape. Those hearings are not under the same records retention requirements as the Clerk. The Clerk must retain the court file forever and cannot preserve tapes and cannot film or digitize oversize maps, plats, etc. The suggestion is to adopt a court rule that does what virtually every Clerk in the state is doing now, i.e., treating the administrative hearing record as a trial exhibit, to be returned to the offering party at the conclusion of the case. The above language is the King County rule. However, the last sentence in the proposed rule was added to avoid the necessity to get a court order for every administrative hearing appeal.*

*The King County Superior Court rule goes beyond the administrative hearing appeal record issue, however. It would enable a Clerk to accept but seal (perhaps temporarily, pending an objection to that decision) unsuitable materials offered to be filed in a case file. Examples of unsuitable material that we have seen have included pornography, videotapes, etc. In those examples, the Clerk would probably ask to seal the pornography but merely treat the videotape as an exhibit, to be returned.*

## Non-Parental Custody Practice Requirements

Significant changes have been made to RCW 26.10 concerning non-parental custody actions. Please take note of the significant requirements below. Without the required forms and information, the case may not proceed.

- **Required documents before filing:**
  - Confidential Information Form, for each Petitioner and Respondent in the action and for all minors the subject of the action. The case cannot be filed without all the required Confidential Information Forms.
- **Required before case can proceed:**
  - Order Directing DCF/CPS to Release Information/Order Restricting Access – Form CU 03.0500
- **Each adult member of Petitioner household is required to fill out and obtain:**
  - Washington State Patrol Criminal History Record Information (CHRI)
  - Cover Sheet for DCFS/CPS Background Check Information – Form CU 03-0520
  - Authorization to Release Information to the Court – Form 09\_966
  - Cover Sheet for DCFS/CPS for Consent for Release of Information from DCF/CPS – Form CU 03.0640

*How to obtain a criminal history:*

1. Get CHRI **immediately** online at <https://watch.wsp.wa.gov/>. There is a \$10 fee for each CHRI search. Credit Card is required **or**
2. Mail completed Request for Conviction Criminal History Record with a cashier's check for \$10 for each request to the Washington State Patrol, Identification and Criminal History Section, PO Box 42633, Olympia, WA 98504-2633. The request form is available online at <https://watch.wsp.wa.gov/>. Allow **3-10** weeks for receipt of the CHRI(s).
3. If CHRI is obtained by mail fill out an affidavit of mailing return receipt requested form and place into file showing what date you mailed for the requested information.

Packets of the new forms are available at the County Clerk's office, 3<sup>rd</sup> Floor, Room 301 or the Whatcom County Court Facilitator's office, 5<sup>th</sup> Floor, Room 507 for a fee of \$3.00. The forms are available online, free, at <http://www.courts.wa.gov/forms/>