

Rule 6-507. Court visitors.**Intent:**

To set forth the appointment and role of court visitors. To establish a process for the review of court visitor reports.

Applicability:

This rule applies to court visitor reports in guardianship and conservatorship cases.

Statement of the Rule:

(1) **Definition.** A visitor is, with respect to guardianship and conservatorship proceedings, a person who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings.

(2) **Appointment and role of court visitor.** Upon its own initiative or motion of a party or an "interested person," as that term is defined in Utah Code section 75-1-201, the court may appoint a court visitor in a guardianship or conservatorship proceeding to conduct an inquiry into the following:

(2)(a) whether to waive the respondent's presence at the hearing under Section 75-5-303(5)(a);

(2)(b) to confirm a waiver of notice submitted by the respondent in a guardianship or conservatorship proceeding under Sections 75-5-309(3) or 75-5-405(1);

(2)(c) to investigate the respondent's circumstances and well-being, including when an attorney is not appointed under 75-5-303(d);

(2)(d) to review annual reports from the guardian and conservator or gather additional financial information;

(2)(e) to locate guardians, conservators, and respondents;

(2)(f) to investigate the proposed guardian's future plans for the respondent's residence under Section 75-5-303(4); or

(2)(g) to conduct any other investigation or observation as directed by the court.

(3) **Motion to excuse respondent or confirm waiver of hearing.** The petitioner, the respondent, or any interested person seeking to excuse the respondent or confirm a waiver of hearing, shall file an ex parte motion at least 21 days prior to the hearing.

(3)(a) Upon receipt of the motion, the court shall appoint a court visitor to conduct an investigation in accordance with paragraph (b) unless a court visitor is not required under Utah Code section 75-5-303.

(3)(b) Upon appointment to conduct an inquiry into whether to excuse the respondent from the hearing, the court visitor will:

(3)(b)(i) interview the petitioner, the proposed guardian, and the respondent;

(3)(b)(ii) visit the respondent's present dwelling or any dwelling in which the respondent will reside if the guardianship or conservatorship appointment is made;

(3)(b)(iii) interview any physician or other person who is known to have treated, advised, or assessed the respondent's relevant physical or mental condition;

Comment [n1]: I recommend being clear about what appointment this is talking about. I assume it's the appointment of a guardian, but it's not exactly clear by context (after all, we are talking about appointing court visitors, etc.).

Nancy: AGREE. Added "guardianship or conservatorship" before "appointment."

38 (3)(b)(iv) confirm a waiver of notice if submitted by the respondent; and

39 (3)(b)(iv) conduct any other investigation the court directs.

40 (4) **Other inquiries.** If the court appoints a visitor under paragraphs (2)(b) through (2)(g), the court
41 visitor will conduct the inquiry in accordance with the court's order or appointment.

42 (5) **Language access.** If the court visitor does not speak or understand the respondent's, proposed
43 guardian's, proposed conservator's, or petitioner's primary language, the court visitor must use an
44 interpretation service approved by the Administrative Office of the Courts to communicate with the
45 respondent, proposed guardian, proposed conservator, or petitioner.

46 (6) **Court visitor report.**

47 (6)(a) **Service of the court visitor report.** Except for court visitor appointments made under
48 paragraph (2)(e), in accordance with Rule 5 of the Utah Rules of Civil Procedure, the court visitor
49 program must file and serve a court visitor report upon all parties and upon any interested person
50 who has requested the appointment of the court visitor.

51 (6)(b) **Request to Submit for Decision.** The court visitor program will file with each court visitor
52 report a request to submit for decision.

53 (6)(c) **Report on request to excuse respondent.** In cases involving a motion to excuse the
54 respondent from the hearing, the court visitor will file with the report a court-approved proposed order.

55 (7) **Termination of court visitor appointment.** The appointment of the court visitor terminates and
56 the court visitor is discharged from the court visitor's duties upon the date identified in the order of
57 appointment. The court may extend the appointment with or without a request from a party.

58 (8) **Court findings.**

59 (a) **Reports regarding waiver of respondent's presence.** When a court visitor has filed a report
60 regarding a request to waive the respondent's presence at the hearing, the court will issue findings and
61 an order as to the waiver at least two days prior to the hearing upon which the request has been made.

62 (b) **All other reports.** When a court visitor has filed a report involving matters other than the waiver of
63 the respondent's presence, the court will issue findings and an order as to those matters in accordance
64 with the timelines of Rule 3-101.

66 Effective May/November 1, 20
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Comment [NS2]: These are whereabouts cases. They are requested by the court, so they do not need to be served on the parties. I've added the first clause beginning with "except."