

**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 visitors and their reports in guardianship and conservatorship proceedings.

**Statement of the Rule:****(1) Definition and visitor requirements.**

(1)(A) A “visitor” is, with respect to guardianship and conservatorship proceedings, an officer, employee, or special appointee of the court with no personal interest in the proceedings whose role is to investigate, observe, and report to the court, but is not to determine capacity of the respondent.

(1)(B) A visitor is trained in law, nursing, or social work either through life experience or through completing any training required by the court visitor program.

(1)(C) A visitor must complete any training required by the court visitor program.

**(2) Appointment and role of court visitor.** Upon its own initiative or motion of a party or any person interested in the welfare of an incapacitated person, the court shall appoint a court visitor in a guardianship or conservatorship proceeding to conduct an inquiry into whether to waive the respondent’s presence at the hearing under Utah Code section 75-5-303(5)(a), or 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). The court may appoint a court visitor in a guardianship or conservatorship proceeding to do the following:

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(2)(A) to investigate the respondent’s circumstances and well-being, including when an attorney is not appointed under Utah Code section 75-5-303(5)(d);

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

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

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

(2)(E) to meet with the adult protected person to determine their wishes regarding association under Section 75-5-312.5; or

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

(3) **Motion to excuse respondent or confirm waiver of notice.** The petitioner, the respondent, or any interested person seeking to excuse the respondent or confirm a waiver of notice submitted by respondent under Utah Code Section 75-5-309(3) or 75-5-405(1), shall file an ex parte motion and request to submit for decision 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 (2) 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 may:

(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;

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

(3)(B)(v) conduct any other investigation the court directs.

(4) **Other inquiries.** If the court appoints a visitor under paragraph (2), the court visitor will conduct the inquiry in accordance with the court's order of appointment.

(5) **Court visitor report.**

(5)(A) **Filing of court visitor report.** The court visitor program must file the court visitor report by the deadline set forth in the order of appointment. If a hearing has been scheduled and there is no deadline in the order of appointment, the court visitor report should be filed at least five days prior to the hearing.

(5)(B) **Service of the court visitor report.** Except for court visitor appointments made under paragraph (2)(C), in accordance with **Rule 5** of the Utah Rules of Civil Procedure and unless otherwise ordered by the court, the court visitor program must serve the court visitor report upon (1) the petitioner under Utah Code section 75-5-303 and the proposed guardian or conservator if different from the petitioner; (2) persons entitled to notice pursuant to Utah Code section 75-5-309; and (3) any person who has requested notice under Utah Code Title 75.

(5)(C) **Request to Submit for Decision.** Upon the filing of the court visitor report, the court visitor program must file a request to submit for decision. In cases involving a motion to excuse the respondent from a hearing, the court visitor program must also file a court-approved proposed order.

(5)(D) **Order on Review of Guardianship or Conservatorship Reports (“Order on Review”).** Upon filing the court visitor report, the court visitor program must include the Judicial Council-approved Order on Review, which shall be filed as a proposed order.

(6) **Objecting to the court visitor report.** Within 7 days of service of the court visitor report, a person who has been served with a copy of the report under paragraph (5)(B) may file a written objection and request for a hearing on the ground that the court visitor exceeded the scope of the court’s order of appointment. No other objections to a court visitor report are permitted. The court may rule on the objection, request briefing on the objection, and/or set a hearing on the objection.

**(7) Court action on reports.**

(7)(A) **Reports regarding excusing respondent’s presence or confirming waiver of notice.** When a court visitor has filed a report regarding a request to excuse the respondent’s presence at the hearing pursuant to Utah Code Section 75-5-303, or confirming a waiver of notice pursuant to Section 75-5-309(3) or 75-5-405(1), the court will issue findings and an order regarding the request to excuse or the waiver of notice at least two days prior to the hearing upon which the request has been made.

(7)(B) **Report Approval and Action.** When a court visitor has filed a report and request to submit for decision, the court will review the report and take appropriate action on the report, as designated on the filed proposed Order on Review. This action may include issuing a decision, requesting further information from the court visitor or the parties, or scheduling the matter for a hearing. If the parties are attempting to resolve the issues raised in the report through

91 mediation, the court may enter an order staying the matter until mediation is completed.

92 **(8) Termination of court visitor appointment.** The appointment of the court visitor terminates  
93 and the court visitor is discharged from the court visitor's duties upon the date identified in the  
94 order of appointment or as otherwise ordered by the court. The court may extend the  
95 appointment with or without a request from a party.

96 *Effective November 1, 2023*