

1 **Rule 6-507. Court visitors.**

2 **Intent:**

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

5 **Applicability:**

6 This rule applies to court visitors s and their reports in guardianship and conservatorship
7 cases proceedings.

8 **Statement of the Rule:**

9 (1) **Definition and visitor requirements.**

10 (1)(A) A “visitor” is, with respect to guardianship and conservatorship proceedings, a person
11 who is trained in law, nursing, or social work and is an officer, employee, or special
12 appointee of the court with no personal interest in the proceedings whose role is to
13 investigate, observe, and report to the court, but is not to determine capacity of the
14 respondent.

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

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

18 (2) **Appointment and role of court visitor.** Upon its own initiative or motion of a party or any
19 person interested in the welfare of an incapacitated person—~~an “interested person,” as that term~~
20 ~~is defined in Utah Code section 75-1-201,~~ the court shall appoint a court visitor in a
21 guardianship or conservatorship proceeding to conduct an inquiry into whether to waive the
22 respondent’s presence at the hearing under Utah Code section 75-5-303(5)(a), or to confirm a
23 waiver of notice submitted by the respondent in a guardianship or conservatorship proceeding
24 under Sections 75-5-309(3) or 75-5-405(1). ~~T~~he court may appoint a court visitor in a
25 guardianship or conservatorship proceeding to conduct an inquiry into do the following:

26 (2)(A) whether to waive the respondent’s presence at the hearing under Section 75-5-
27 303(5)(a);

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

30 [\(2\)\(AG\)](#) to investigate the respondent's circumstances and well-being, including when an
 31 attorney is not appointed under [Utah Code section 75-5-303\(5\)\(d\)](#);

32 [\(2\)\(BD\)](#) to review annual reports from the guardian and conservator or gather additional
 33 financial information;

34 [\(2\)\(CE\)](#) to locate guardians, conservators, and respondents;

35 [\(2\)\(DF\)](#) to investigate the proposed guardian's future plans for the respondent's residence
 36 under Section [75-5-303\(4\)](#); ~~or~~

37 [\(2\)\(E\) to meet with the adult protected person to determine their wishes regarding](#)
 38 [association under Section 75-5-312.5; or](#)

39 [\(2\)\(EG\)](#) to conduct any other investigation or observation as directed by the court.

40 (3) **Motion to excuse respondent or confirm waiver of [noticehearing](#).** The petitioner, the
 41 respondent, or any interested person seeking to excuse the respondent or confirm a waiver of
 42 [hearingnotice submitted by respondent under Utah Code Section 75-5-309\(3\) or 75-5-405\(1\)](#),
 43 shall file an ex parte motion [and request to submit for decision](#) at least 21 days prior to the
 44 hearing.

45 (3)(A) Upon receipt of the motion, the court shall appoint a court visitor to conduct an
 46 investigation in accordance with paragraph (2) unless a court visitor is not required under
 47 Utah Code section [75-5-303](#).

48 (3)(B) Upon appointment to conduct an inquiry into whether to excuse the respondent from
 49 the hearing, the court visitor [maywill](#):

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

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

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

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

56 (3)(B)(~~iv~~) conduct any other investigation the court directs.

57 (4) **Other inquiries.** If the court appoints a visitor under paragraphs [\(2\)\(B\) through \(2\)\(G\)](#), the
 58 court visitor will conduct the inquiry in accordance with the court's order ~~or of~~ [appointment](#).

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

~~(5)(6) **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)(6)(BA) **Service of the court visitor report.** Except for court visitor appointments made under paragraph (2)(CE), in accordance with Rule 5 of the Utah Rules of Civil Procedure and unless otherwise ordered by the court, the court visitor program must file and serve the court visitor report upon all parties and upon any interested person who has requested the appointment of the court visitor: (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)(6)(CB) **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. The court visitor program will file with each court visitor report a request to submit for decision.~~

~~(6)(C) **Report regarding waiver of respondent's presence.** In cases involving a motion to excuse the respondent from the hearing, the court visitor will file with the report a court-approved proposed order. The report, a request to submit for decision, and a proposed order will be filed five days before the hearing.~~

(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

91 the court's order of appointment. No other objections to a court visitor report are permitted. The
92 court may rule on the objection, request briefing on the objection, and/or set a hearing on the
93 objection.

94 **(7)(8) Court findingsaction on reports.**

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

101 **(78)(B)All other reportsReport Approval and Action.** When a court visitor has filed a
102 report and request to submit for decision involving matters other than the waiver of the
103 respondent's presence, the court will issue findings and an order as to those matters in
104 accordance with the timelines of Rule 3-101. review the report and take appropriate action
105 on the report, as designated on the filed proposed Order on Review. This action may include
106 issuing a decision, requesting further information from the court visitor or the parties, or
107 scheduling the matter for a hearing. If the parties are attempting to resolve the issues raised
108 in the report through mediation, the court may enter an order staying the matter until
109 mediation is completed.

110 **(87) Termination of court visitor appointment.** The appointment of the court visitor terminates
111 and the court visitor is discharged from the court visitor's duties upon the date identified in the
112 order of appointment or as otherwise ordered by the court. The court may extend the
113 appointment with or without a request from a party.

114 *Effective May/November 1, 202_0*