

**3. REQUEST FOR NEW LOCAL RULE TO CREATE A DEADLINE FOR PROVIDING DISCOVERY FOR SHELTER CARE HEARINGS AND AMENDING THE CONTENT OF DISCOVERY AMENDING SCLJuCR 2.3(a)(4)**

**ISSUE:** Late discovery and contents of discovery for shelter care hearings

**PROPOSED LOCAL RULE:** Discovery. The Department shall electronically provide all copies of Department records to which the child and the child's parents have legal access ~~discovery supporting the dependency petition filing~~ to all appointed and provisionally appointed attorneys and the Guardian ad Litem program by 3:00 p.m. the day before the 72-hour shelter care hearing: Monday at 3:00 p.m. for the Tuesday afternoon shelter care calendar and Thursday at 3:00 p.m. for the Friday afternoon shelter care calendar.

When a parent appears without provisionally appointed counsel, such discovery shall be provided directly to the parent by the above-mentioned deadlines. at the shelter care hearing absent direct contact with the Attorney General's Office.

**REASON:** Part 1: Shelter care hearing discovery is often not provided in a timely manner, which precludes family defense attorneys from providing Constitutionally required effective assistance of counsel. The remedy for the inability to properly prepare for the shelter care hearing is to request a continuance. When continuances are requested repeatedly because of delayed discovery, the right to a 72-hour shelter care becomes purely symbolic. It also clogs future shelter care court calendars, which can also lead to a delay in the fact-finding.

Part 2: RCW 13.34.090(5) identifies the contents of discovery that shall be provided to parents at the shelter care hearing, however the language of SCLJuCR 2.3(4) does not reflect RCW 13.34.090(5). RCW 13.34.090(5) requires DCYF to provide "[c]opies of department records to which the child and the child's parents have legal access" but SCLJuCR 2.3(4) requires DCYF to "provide all discovery supporting the dependency petition filing." This request to amend SCLJuCR 2.3(4) would require the Department to provide all discovery that is required under RCW 13.34.090(5).