

## **Instructions for reporting on preparing the file for the hearing**

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### **(1) Visitor's Report on Preparing the File for the Hearing**

- Will the respondent attend the hearing?
  - Section 75-5-303 requires the respondent to attend the hearing. If it is proposed that the respondent be excused from the hearing the judge must appoint a court visitor unless the petitioner presents clear and convincing evidence from a physician of the respondent's inability to attend due to Fourth Stage Alzheimer's Disease, extended comatosis, or an intellectual disability with an intelligence quotient score under 20 to 25.
  - If there is nothing in the petition or any separate document to indicate that the respondent should be excused from the hearing, presume that the respondent will attend.
- If not, has a visitor been appointed?
  - If the petition or a separate document does indicate that the respondent should be excused from the hearing, look further to see whether the petitioner claims clear and convincing from a physician evidence that respondent has fourth stage Alzheimer's, extended coma, or an intellectual disability with an IQ of less than 20 to 25.
- Does the respondent have a lawyer?
  - Section 75-5-303 requires that the respondent have a lawyer, and that the court appoint one if the respondent is not represented. Sometimes the petitioner or the petitioners lawyer will arrange for a lawyer to represent the respondent.
- Is an interpreter needed?
  - Rule 3-306 requires the court to appoint an interpreter if a person has limited English proficiency. The judicial assistant can record the need for an interpreter in CORIS and each district has an interpreter coordinator to find and schedule an interpreter for the hearing. The court will also provide an American Sign Language interpreter if ASL will accommodate a person who is deaf or hard of hearing.
- Are all required documents in the file?
  - Petition.
  - Notice of hearing
  - List of persons to be served with petition and notice of hearing. (If the petitioner uses court-approved forms, this is called "Schedule A.")
  - Proof of service of the petition and notice of hearing (on respondent, respondent's spouse, respondent's parents) at least 10 days before the hearing

- Certificate of mailing of the petition and notice of hearing (to everyone else entitled to service) at least 10 days before the hearing
- Clerk's certificate of posting public notice at least 10 days before the hearing
- Physician's report; other statements or affidavits about respondent's capacity
- Other documents often filed with the petition, but not necessary until appointment:
  - Completion of testing certificate (if required)
  - Proposed Findings of Fact, Conclusions of Law and Order/Proposed Letters of Appointment
  - Acceptance of Appointment

**(2) Private information**

- Your report is a private record, which means that it must not be accessed by the public. Protect it from being seen or taken by an unauthorized person.

**(3) Attending the hearing**

- Hearings usually are open to the public, so you may attend even if you are not required to do so. If you are subpoenaed to testify, you must attend the hearing.