

**KITSAP COUNTY DISTRICT COURT
GR 7 COVER SHEET**

**Proposed New Local Rule
LGR 100 – Trial Confirmation And Appearance
Submitted By Kitsap County District Court**

- (A) **Name Of Proponent** – Kitsap County District Court.
- (B) **Spokesperson** – Claire A. Bradley, Presiding Judge.
- (C) **Submitted For Comment** – Kitsap County District Court is seeking comment pursuant to GR 7(b) on proposed new LGR 100. All comments shall be submitted in writing to the Court **no later than noon on Wednesday, June 21, 2023**. All comments received will be posted on the Court website at **www.kitsap.gov/dc**.

GR 7(b) reads as follows –

(b) Review and Comment

- (1) No court may adopt an amended or new local rule without first distributing the proposal and allowing at least 30 days for comment. The court shall distribute the proposal by posting it on the court’s website and sending the proposal to the county prosecutor, the county clerk, a representative of the county public defender, and the local bar association (with a request that the association notify its members). The court may also take other actions to distribute the proposal.
- (2) The court shall direct that all comments on the proposal be submitted in writing to the court by a deadline the court sets. The court shall post on its website all comments it receives.
- (3) After the comment period closes and the court considers any comments, the court may adopt, amend, or reject the proposal or take such other action as the court deems appropriate.

(D) **How To Submit A Comment** – All comments should be submitted to the Court Administrator Robyn Dunham by either email or U.S. mail. Comments may be sent by email to **RDunham@kitsap.gov** or by mail to Kitsap County District Court, 614 Division Street, MS-25, Port Orchard, WA 98366.

(E) **Effective Date** – If implemented, the effective date of proposed new LGR 100 will be Friday, September 1, 2023. GR 7(a).

(F) Purpose Of Proposed New Rule –

(1) Codification Of Trial Confirmation Process. Some courts of limited jurisdiction schedule a “readiness” hearing the week before the scheduled trial date so that the court and parties can be notified and prepared if a case is anticipated to go to trial the following week.

Decades ago, District Court implemented a trial confirmation process for civil and criminal trials, both bench and jury, rather than schedule a “readiness” hearing and require parties to appear in court. Attorneys are directed to telephonically contact the court scheduler no later than 1:30 PM the Thursday before the scheduled trial date to confirm a trial. While trial confirmation has worked well over the years, the telephonic confirmation process is labor intensive for court staff.

When a trial is telephonically confirmed, scheduling staff must – make a docket entry; create a printout of the docket entry so the confirmation does not get lost; email many stakeholders¹ with pertinent information about the case (name, case number, counsel); confirm bailiff availability; schedule staff for trial; and reconnect with the jury office on Friday to confirm the jury confirmation so that a jury panel will be available on the scheduled trial date. The same process repeats if a confirmed trial is thereafter unconfirmed. Although infrequent, trial confirmation voice mails have been unable to be understood or lost due to technical issues.

Implementation of the new Journal case management, document generation, and electronic filing system on August 14, 2023 offers an automated process upon the filing of a trial confirmation or unconfirmation document. This automated process is streamlined, offers instant notification without court staff action, and is more timely and accurate because the process is not staff-dependent.

(2) Mandatory Filing Of Confirmation/Unconfirmation Documents. This proposed new rule replaces the current telephonic confirmation process with a mandatory document filing confirmation process. Trials are confirmed with the timely filing of a Notice Of Trial Confirmation. A confirmed trial is unconfirmed with the timely filing of a Notice Of Trial Unconfirmation. The filing of either document will auto-generate an email notice to the stakeholders listed in footnote 1. Either party will also be able to view the filed document through the Portal. Confirmation/unconfirmation forms will be available on the court website, www.kitsap.gov/dc.

The new proposed rule also includes specific trial confirmation and unconfirmation timeframes, what happens if a trial is not confirmed, and includes possible sanctions.

(3) Mandatory In Person Appearance At Trial. COVID courtroom restrictions have been lifted. Proposed new LGR 100(n) reinstates the pre-COVID requirement that all parties and counsel must appear in person at the scheduled trial date regardless of whether the trial has been confirmed. The proposed rule authorizes exceptions to the mandatory in person appearance upon prior court permission.

¹ Superior Court, jury office, prosecutor/defense in criminal case; staff confirmation backup; judges; court administrator; court management team; and bailiff.

KITSAP COUNTY DISTRICT COURT

LOCAL COURT RULES – GENERAL

LGR 100 [NEW]

TRIAL CONFIRMATION AND APPEARANCE

- (a) **Policy And Purpose.** The purpose of this rule is to – (1) codify the process of the court being notified by parties that a case is anticipated to proceed to trial at the scheduled trial date; and (2) require parties and counsel to appear in person at the scheduled trial date.
- (b) **Scope.** This rule applies to all civil and criminal trials, both bench and jury. This rule does not apply to trials of the following case types – infractions; vehicle related violations; forfeitures; name changes; protection orders; small claims; or vehicle impounds.
- (c) **Mandatory Trial Confirmation.** Civil and criminal trials shall be confirmed when a party anticipates a case proceeding to trial at the scheduled trial date.
- (d) **Trial Confirmation Method.** Civil and criminal trials shall be confirmed by a party filing a written Notice Of Trial Confirmation. Trials may not be confirmed telephonically, by email, or by any other method.
- (e) **Trial Confirmation Timeframe.** Civil and criminal trials shall be confirmed within the following timeframe the week before the scheduled trial date –
 - (1) **Court Open Friday Before Scheduled Trial Date.** A written Notice Of Trial Confirmation shall be filed no earlier than 8:00 AM on the Monday before the scheduled trial date and no later than 1:30 PM on the Thursday before the scheduled trial date.
 - (2) **Court Not Open Friday Before Scheduled Trial Date.** A written Notice Of Trial Confirmation shall be filed no earlier than 8:00 AM on the Monday before the scheduled trial date and no later than 1:30 PM on the Wednesday before the scheduled trial date.
 - (3) **Court Not Open Thursday Or Friday Before Scheduled Trial Date.** A written Notice Of Trial Confirmation shall be filed no earlier than 8:00 AM on the Monday before the scheduled trial date and no later than 1:30 PM on the Tuesday before the scheduled trial date.
 - (4) **Scheduled Trial Date On Tuesday.** If the scheduled trial date is on a Tuesday because the court is closed on Monday, the above Monday confirmation timeframes begin the Monday prior to the Monday the court is closed.
- (f) **Failure To Confirm Trial – Court Actions.** Failure to timely confirm a civil or criminal trial will result in the following non-exclusive list of court actions taken at the scheduled trial date – confirmed trials having priority; witnesses not being permitted to testify; a jury panel not being present; court staff being reassigned to other tasks, and possible continuance of the trial date.

- (g) **Failure To Confirm Trial – Sanctions.** The court on its own initiative or on a motion of a party may order an attorney or party to show cause as to why sanctions or terms should not be imposed for the failure to confirm a civil or criminal trial.

If the court finds that an attorney or party has failed to confirm a civil or criminal trial and has no reasonable excuse or other good cause, the court may order the attorney or party to pay monetary sanctions to the court, or terms to any attorney or party who has incurred expense as a result of the failure to confirm a civil or criminal trial, or both.

In addition, the court may impose such other sanctions or terms as justice requires.

As used in this rule, “terms” means costs, reasonable attorney fees and other expenses incurred or to be incurred as a result of the failure to confirm a civil or criminal trial. “Monetary sanctions” means a financial penalty payable to the court. “Other sanctions” includes, but is not limited to, the exclusion of evidence and other sanctions available pursuant to the Limited Jurisdiction Court Civil Rules (CRLJ), Limited Jurisdiction Court Criminal Rules (CrRLJ), and Local Court Rules.

- (h) **Untimely Trial Confirmation.** The court clerk shall reject the filing of a written Notice Of Trial Confirmation not filed within the confirmation timeframe of LGR 100(e).
- (i) **Trial Unconfirmation.** Confirmed civil and criminal trials may be unconfirmed by either party. A party unconfirming an opposing party’s Notice Of Trial Confirmation may only unconfirm the trial upon a showing of good cause to be determined at the scheduled trial date.
- (j) **Trial Unconfirmation Method.** Confirmed civil and criminal trials may be unconfirmed by a party filing a written Notice Of Trial Unconfirmation. Trials may not be unconfirmed telephonically, by email, or by any other method.
- (k) **Trial Unconfirmation Timeframe.** Confirmed civil and criminal trials may be unconfirmed within the following timeframe the week before the scheduled trial date –
- (1) **Court Open Friday Before Scheduled Trial Date.** A written Notice Of Trial Unconfirmation shall be filed no later than 1:30 PM on the Friday before the scheduled trial date.
 - (2) **Court Not Open Friday Before Scheduled Trial Date.** A written Notice Of Trial Unconfirmation shall be filed no later than 1:30 PM on the Thursday before the scheduled trial date.
 - (3) **Court Not Open Thursday Or Friday Before Scheduled Trial Date.** A written Notice Of Trial Unconfirmation shall be filed no later than 1:30 PM on the Wednesday before the scheduled trial date.
- (l) **Untimely Trial Unconfirmation.** The court clerk shall reject the filing of a written Notice Of Trial Unconfirmation not filed within the unconfirmation timeframe of LGR 100(k).

- (m) **Forms.** Notice Of Trial Confirmation and Notice Of Trial Unconfirmation forms are available under the “Forms” link at the court website, www.kitsap.gov/dc.
- (n) **Mandatory In Person Appearance At Trial.** All parties and counsel shall appear in person at the scheduled civil and criminal trial date regardless of whether a trial has been confirmed. Appearance by video conference, telephonically, or by any other method is prohibited absent prior court permission.

[Effective September 1, 2023]