

How to Write a Declaration in a Family Law Case

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, October 2007.

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What is a Declaration?

A declaration is a written statement, sworn to be the truth under penalty of perjury by any person who has direct knowledge about the issues in a court case.

What is a Declaration for?

Declarations are usually used when filing or responding to motions in court. A declaration gives information that will help the judge¹ make a decision on the motion. When the court has hearings on motions, the parties are not given much time to speak and are usually not allowed to testify about facts in the case. Anything the judge needs to know to make a decision at the hearing should be written in a declaration.

If a guardian ad litem (GAL) is appointed, s/he will often use the declarations to understand the issues, to help determine what is in the child's best interests, and to understand whether a child has been harmed or would be harmed by living with a parent.

The parties usually file the originals of signed declarations with the court and serve copies on other parties together with the motion, or the response or reply to the motion.

What is in this packet?

This packet contains the general Declaration form approved by the Administrator for the Courts and three sealed cover sheets. This packet has instructions and suggestions for these forms, and it explains what information needs to be protected with a sealed cover sheet.

Who should not use the Declaration form in this packet?

With a few exceptions, declarations are not admitted as evidence at a trial.² If you are preparing for trial, you typically will need to have witnesses appear in person and not by declaration.

A few counties might allow or require oral testimony at motions hearings, but most decide motions based on declarations. Check your local court rules.

Some motions have special declaration forms. They are not in this packet. If you need a declaration for a particular motion, you may need a special declaration form required just for that motion, for example a *Declaration in Support of Parenting Plan* form. Our website www.washingtonlawhelp.org has a list of family law packets for many different motions. Each packet has the state-wide court forms for that motion. Court forms are also available on the court's website at: <http://www.courts.wa.gov/forms/>

¹ Many decisions in family law cases are made by court commissioners rather than judges. Court commissioners are similar to judges but only make decisions relating to a particular subject matter. Many counties have family law commissioners who decide cases only about family law. In this publication when we write "judge" we mean judge or commissioner.

² One exception is that child support modification cases often have trial by affidavit (declaration) not by oral testimony.

By presenting a declaration from a witness, a party may be giving up the right to keep confidential other information that witness may have about the party or the child.

Who writes Declarations?

If you are a party (petitioner or respondent), you may need to write your own declaration at different pre-trial stages of the case³: to tell “your side of the story,” to explain your requests, to give required information, or to respond to another person’s declaration.

In addition, parties often ask other people, such as teachers, doctors, family members, counselors, friends, scout leaders, coaches, clergy, police or law enforcement officers, neighbors, or others who have directly seen, heard, or otherwise witnessed important events to write declarations explaining what they know.

Generally, parties do not need more than one witness to give the same information, especially if the information is not disputed. If several witnesses would say the same things, the party should choose only one or two to write a declaration. Generally, the court gives more weight to a neutral person or a professional than to someone obviously supporting only one side of the case. The more specific information someone has about the parties and/or the child, the better witness they will make. Some people such as school teachers or counselors may need a signed release of information form before writing the declaration.

Some courts limit the number of different declarations they will accept or limit the total number of pages that can be filed.

What are Exhibits?

Exhibits are documents -- written proof attached to a declaration that helps prove what is said in the declaration. For example, you may attach copies of bills, school records, medical or treatment records, police records, and other types of documents to declarations. You should call the papers that you attach to your declaration Exhibits and either number (1,2,3) or letter (A,B,C) them. Certain types of exhibits require a sealed records cover sheet, as explained below.

Some counties use the word “attachment” instead of “exhibit.” All counties may have special rules for using exhibits or attachments.

General Instructions for the forms in this packet

The main family law packets at www.washingtonlawhelp.org have a more complete set of General Instructions. The information below is shorter and contains information you are most likely to need when writing declarations in a case that has already been filed.

³ Remember that some motions require special declaration forms not in this packet.

A Note on Format: Pleadings (legal forms) that you file with the court must follow the court rules about size and margins ([GR 14\(a\)](#)). You must use regular size (8 ½ x 11”) white paper and you may write on only one side of the paper. The first page of each paper that you file must have a 3 inch margin (3 inches of space) at the top. The other margins (left, right and bottom, and the top from the second page on) must be at least one-inch wide. You should use black or dark blue ink. If your forms do not follow these rules, the court clerk may refuse to file them or may make you pay a fine.

The caption. The caption includes the name of the case, the case number, the name of the court, and the title of the court paper. It appears at the top of the first page of every form.

- **Name of the court.** Write in the name of the county where the case is filed in the blank space where the form reads "Superior Court of Washington County of _____."
- **Case name.** Fill in the names as they appear on the Petition.
- **Case number.** Write the case number from the Petition near the top on the right hand section of the first page of every form.

Identifying Information. There are new court rules which try to protect privacy. The next boxes discuss these rules: [GR 15](#), [GR22](#) and [GR 31](#). Use this information and the instructions about each form to help you decide when you need a sealed cover sheet.

Box #1

Things You Should Not Write in Most of Your Court Papers: New rules for courts in Washington, General Rules 22 & 31, try to protect privacy in family law cases. Almost all pleadings, orders and other papers filed with the court are available to the public, and may be available to the public on the internet.

Residence Address (Where you Live) and Telephone Number: You do not have to write these in court papers; however, you do need to write in an address where you can get mail from the court, and it is a good idea to give the court a phone number where you can be reached.

Social Security/Driver's License, ID Numbers of Adults and Children: You are not required to write these in court papers; if you do, you should write only the last four digits, not the whole number.

Dates of Birth of Children: Do not write them in court papers.

Bank Account, Credit Card Numbers: Write the bank name, type of account (savings, checking, etc.), and only the last four digits of the account number.

Box #2:

PRIVATE INFORMATION THAT SHOULD BE FILED WITH SEALED COVER SHEETS:

If a sealed cover sheet is used, this information is usually available to the other party and the court but it is not placed in the public file.

Financial Information: If you file pay stubs, checks, loan applications, tax returns, credit card statements, check registers, W-2 forms, bank statements, or retirement plan orders, attach them to a Sealed Financial Source Documents form to ensure that they will not be available to the public.

Medical or Mental Health Records or Information: If you file papers containing health or mental health information (information about past, present, or future physical or mental health of a person, including insurance or payment records), you must attach the papers to a Sealed Personal Health Care Records form so that they will not be available to the public.

Confidential Reports: Reports such as Parenting Evaluations, CPS Reports, Domestic Violence Assessments, and Guardian ad Litem Reports that are intended for court use must have two sections, a public section and a private section. The private section of the report should be attached to a Sealed Confidential Reports Cover Sheet.

Retirement Plan Orders: Certain retirement information belongs in the public file, but “Retirement Plan Orders” do not. Use the Sealed Financial Source Documents Cover Sheet for the Retirement Plan Order. See GR 22 for the definition or see an attorney if this affects your case.

Other Kinds of Confidential or Embarrassing Information Not Mentioned Above. If the paper that you want to keep confidential is not in the above list, you may need to file a motion with the court to ask permission to have that paper, or part of a paper, sealed under General Rule (GR) 15. We do not have a packet that tells you how to do this and there are presently no mandatory forms for this type of motion; you will need to talk to an attorney.

Instructions and suggestions for the forms in this packet

A. Instructions for Declaration Form

Read your local court rules. Your court may have special additional requirements for declarations. Remember that some motions require special Declaration forms not in this packet.

Some county clerk’s offices have forms and local rules available online. You may check whether your county’s local rules or forms are available online at the following website <http://www.courts.wa.gov/rules/local.cfm?group=superior>.

- **Caption:** Fill out the caption on the top half of page 1. If you do not, the clerk will not know which case your declaration relates to. If you are a party, you may want to fill out the caption and make several copies of the declaration form before any other information is included. This way you will have blank forms that have just your case caption on them so that you may give one to each witness to fill out and have one for yourself.

- **This declaration is made by:** Write in the name, age and the relationship to the parties in the case; for example:
 - (example for a party) “Susan Marty, age 28, Petitioner” or
 - (example for a witness) “David Everett, age 45, Susan Marty’s neighbor.”
- **Blank Lines:** On the blank lines, after the words “I declare”, the person writing the declaration should type or print neatly in black or dark blue ink the information that s/he wants to tell the judge. Read the suggestions in the paragraphs below.
- **Using Documents and Confidential Information.**
 - If you want to attach documents to Declarations, such as printouts of bills, school records, medical or treatment records, police records, etc., you should refer to them in the declaration, explain what they are, call the documents “Exhibits” and number them: Exhibit Number 1, Exhibit Number 2, and so on.
 - If the papers to be attached do not require a sealed cover sheet (see the General Instructions section if you are not sure), staple them as attachments to the declaration.
 - If the papers to be attached to the declaration do have personal medical or mental health information, or financial records, or confidential court reports, write an exhibit number or letter on each paper that will be attached. When the person writing the declaration mentions that paper, they should use that exhibit number or letter and write it is “filed with the Sealed _____ (fill in name of confidential cover sheet) cover sheet on _____ (date).” Do not staple the paper to the declaration. Instead, attach the paper to the appropriate Sealed Cover Sheet form before you file and serve it.

The sealed cover sheet forms are described later in this packet. (See the information box in the General Instructions section of this packet about the types of papers to keep out of the public file.)
 - If the declaration talks about personal medical or mental health information, or financial records, attach the declaration to the appropriate Sealed Cover Sheet form before you file and serve it. The sealed cover sheet forms are described later in this publication. (See the information box in the General Instructions section of this packet about the types of papers to keep out of the public file).
- **Signature Line:** The person making the declaration should date and sign at the signature line and write the place where s/he signed the statement. Declarations do not have to be notarized because the witness is swearing the statements are true under the penalty of perjury.

B. Tips on writing a Declaration.

The person writing a declaration should keep the following in mind:

- Declarations should be as short as possible and should stick to the main points that you need to make. Put your most important points first and the less important points later. The court

will not want to read about matters that are not related to the motion.

- The information in the statement must be based on the writer's own personal knowledge (what he or she saw firsthand) and not what someone else told the writer. One exception is that the writer may talk about what another party has said. *Example of what you cannot write in your declaration:* "I called the police and the responding police officer told me he responded to similar calls when Petitioner was married to his ex-wife," or "Petitioner's mother told me he tried to commit suicide when we separated." However, the police officer and Petitioner's mother, in the examples above, can provide their own declarations regarding their direct knowledge about the Petitioner. *Example of what you can write in your declaration:* "Petitioner called me and threatened to disappear with our children if I filed for divorce."
- The writer should explain how well he or she knows the parties or children in the case. For example, "Ralph has worked for me at Acme Plumbing for 15 years."
- Declarations should be typed or written neatly in **black or dark blue ink**. If the declaration is difficult to read, the court may refuse to read it.
- Be specific. General statements such as "she is a bad mother" or "the child/ren are much happier now, living with Mary" are not helpful. Instead, the declaration should describe specific things and give some information about when and where incidents occurred, such as, "About a year ago, Joe knocked over our mailbox while driving. I ran out to the street to see what had happened. I smelled liquor on his breath. I have seen him weaving down the road in his car three other times this year."
- Some courts limit the number of pages that you may give to the court with a motion. Check your local rules or with the court clerk or family law facilitator.
- You may attach extra pages to the declaration if you need more space (as long as you do not go over your county's page limit for declarations). However, make sure that the writer of the declaration signs and dates the declaration in the space that says "I declare under penalty of perjury..." Your extra pages should also have margins of at least one inch, and you should number all the pages at the bottom.
- Use headings to organize the declaration and make it easy to find the subject. Take time to organize your ideas before you write, create headings, and then write your details about that subject under its heading.
- If appropriate, write about events in chronological order (from the oldest events to the most recent). *Example:* "The respondent has a history of committing domestic violence. In March 2001, he was convicted of fourth degree assault against me. He is currently being charged with fourth degree assault against me for an incident that occurred February 15, 2007."
- Tell your side of the story. If you are responding to the other party's motion, or you are writing a reply declaration, respond to the major points that the other party talked about in his/her declaration.
- After writing the declaration, re-read it to be sure it is correct and complete. If you have to make corrections, be sure the correction is neat and readable. Do not write in the margins of any page or the clerk may reject your form.
- Follow the instructions about using sealed cover sheets.

C. How do I know what to write in my Declaration?

What you write in your declaration depends on what the motion is about and what information you have about that subject. In general, the declaration is your chance to tell the court the important facts on that motion. For example, if you need declarations about parenting, witnesses might write about some or all of the following (if the witness knows):

- Times they have seen each parent with the child(ren).
- Each parent's relationship and interactions with the child(ren).
- Each parent's living situation, and whether it's appropriate for children.
- Any problem issues affecting a party or child such as alcohol and/or drug use, domestic violence, child abuse or neglect, criminal behavior, or any mental health issues.
- Any special needs of the children.
- What they have heard a parent say to the children or in the children's presence about the other parent.
- Each parent's dependability, truthfulness, and whether you would trust the parent to care for your own children.
- Which parent provides for daily needs of the children -- who prepares the children's meals, who takes them to doctor's appointments, who grooms them, who washes/irons their clothes, etc.

D. Instructions for the Sealed Personal Health Care Records Cover Sheet

Unless you learn that a local procedure requires otherwise, use this form whenever you file any papers with the court that mention health care of any kind -- mental health care, health insurance, or medical bills -- to make sure the records are not available to the public. You should use this cover sheet on any records or correspondence containing information that relates to the past, present, or future physical or mental health condition of an individual including past present or future payments for health care. Some of the papers that should be filed with this cover sheet are:

- medical and mental health records and bills,
- letters or declarations from doctors and counselors,
- medical bills & statements of medical coverage (or denial),
- cost estimates for medical care,
- social security and L&I and other disability program letters and records,
- medical evaluations
- medical insurance records
- dental records

- records of alternative health care practitioners such as massage therapists, acupuncturists and chiropractors.

Because this is a new rule, it is not clear whether you must put this cover sheet on declarations that mention medical or mental health conditions, but you should try to do so.

Keep a blank copy of this form in case you need to file more health care records later.

Attach the confidential personal health care records to this form.

Caption. Fill out the caption.

Check the boxes next to each type of paper that you are filing. Usually this will be only the box before “relates to the past, present, or future...”

- If you are afraid of providing your address or your location information to the other parties, you should block out that information on the copies that you file with the court and deliver to the other parties.
- At the top of the first page of each set of health care records, about one inch from the top of the paper, write “Sealed.”

The person submitting the records should sign on the line under “submitted by”.

E. Instructions for the Sealed Confidential Reports (Cover Sheet)

This form is used whenever certain confidential reports are filed with the court. The reports include reports such as the following if they are intended as reports to the court in a family law case:

- Parenting evaluations
- Domestic Violence Assessment Reports created by certain qualified people
- CPS reports
- See the form for other types of reports

If you are afraid of providing your address or your location information to the other parties, you should block out that information on the copies that you file with the court and deliver to the other parties.

Attach the confidential part of the report to this form.

In addition to the private part of the report, the person preparing the report needs to file a public portion that simply lists the materials or information reviewed, the individuals contacted, the tests conducted or reviewed, and the conclusions or recommendations reached.

Caption. Fill out the caption as described in Section 5.

Check the boxes next to the type of report.

At the top of the first page of the report, about one inch from the top of the paper, write “Sealed.”

The person submitting the records should sign on the line under “submitted by”.

F. Instructions for the Financial Records Cover Sheet

This form is used when private financial documents are filed with the court. Keep a blank copy of this form in case you need to file more financial documents later. You may attach one form to a stack of documents.

- **Caption.** Fill in the caption.
- **Check the boxes next to each type of paper that you are filing.**
- If you are afraid of providing your address or employer's address to the other parties, you should block out that information on the copies that you file with the court and deliver to the other parties.
- The person submitting the form should sign under "submitted by".
- At the top of the first page of each set of financial papers, about one inch from the top of the paper, write "Sealed."

Blank Forms in this Packet

The following blank forms are in this packet. You may not need every form. You may also need special declaration forms from other packets. See the main family law packet you are using to decide what additional forms you need.

- Declaration of Witness
- Sealed Personal Health Care Records Sheet
- Sealed Confidential Reports Cover Sheet
- Sealed Financial Records Cover Sheet

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**Superior Court of Washington
County of _____**

In re:

Petitioner(s),

and

Respondent(s).

No. _____

Declaration of

**[Name]
(Optional Use)
(DCLR)**

This declaration is made by:

Name: _____

Age: _____

Relationship to the parties in this action: _____

I Declare:

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(Attach Additional Pages if Necessary and Number Them.)

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at _____, [City] _____ [State] on _____ [Date].

Signature of Declarant

Print or Type Name

Do not attach financial records, personal health care records or confidential reports to this declaration. Such records should be served on the other party and filed with the court using one of these cover sheets:

- 1) Sealed Financial Source Documents (WPF DRPSCU 09.0220) for financial records**
- 2) Sealed Personal Health Care Records (WPF DRPSCU 09.0260) for health records**
- 3) Sealed Confidential Report (WPF DRPSCU 09.270) for confidential reports**

If filed separately using a cover sheet, the records will be sealed to protect your privacy (although they will be available to all parties in the case, their attorneys, court personnel and certain state agencies and boards.) See GR 22(C)(2).

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**Superior Court of Washington
County of _____**

In re:

Petitioner(s),

and

Respondent(s).

No. _____

**Sealed Personal Health Care
Records
(Cover Sheet)
(SEALPHC)
Clerk's Action Required**

Sealed Personal Health Care Records

(List documents below and write "Sealed" at least one inch from the top of the first page of each document.)

Records or correspondences that contain health information that:

- Relates to the past, present, or future physical or mental health condition of an individual including past, present, or future payments for health care.
- Involves genetic parentage testing.

Submitted by:

Notice: The other party will have access to these health care records. If you are concerned for your safety or the safety of the children, you may redact (block out or delete) information that identifies your location.

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**Superior Court of Washington
County of _____**

In re:

Petitioner(s),

and

Respondent(s).

No. _____

**Sealed Confidential Reports
(Cover Sheet)
(SEALRPT)
Clerk's Action Required**

Sealed Confidential Reports

(List documents below and write "Sealed" at least one inch from the top of the first page of each document.)

This cover sheet shall be used to file the sealed portion of the following reports:

- Parenting evaluations
- Domestic Violence Assessment Reports created by Family Court Services or a qualified expert appointed by the court
- Risk Assessment Reports created by Family Court Services or a qualified expert
- CPS Summary Reports created by Family Court Services or supplied directly by Children's Protective Services
- Sexual abuse evaluations
- Reports of a guardian ad litem or Court Appointed Special Advocate
- Other:

The sealed portion of these reports include: 1) Detailed descriptions of material, or information gathered or reviewed; 2) Detailed descriptions of all statements reviewed or taken; 3) Detailed descriptions of tests conducted or reviewed; 4) Analysis to support the conclusions and recommendations.

Submitted by:

Notice: The other party will have access to these confidential reports. If you are concerned for your safety or the safety of the children, you may redact (block out or delete) information that identifies your location.

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**Superior Court of Washington
County of _____**

In re:

Petitioner(s),

and

Respondent(s).

No. _____

**Sealed Financial Source
Documents
(Cover Sheet)
(SEALFN)
Clerk's Action Required**

Sealed Financial Source Documents

(List documents below and write "Sealed" at least one inch from the top of the first page of each document.)

- Income Tax records
- Pay Stubs
- Credit Card Statements
- Bank statements
- Checks or the equivalent
- Check registers
- Loan application documents
- Retirement plan orders
- Other

Submitted by:

Notice: The other party will have access to these financial source documents. If you are concerned for your safety or the safety of the children, you may redact (block out or delete) information that identifies your location.