

How to Write a Declaration in a Family Law Case

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 it for?

You usually use Declarations 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 do not get much time to speak. You are also 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 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.

¹ Many decisions in family law cases are made by court commissioners, not judges. Court commissioners are like judges, but only make decisions relating to a particular subject matter. Many counties have family law commissioners who decide only family law cases. In this publication when we write "judge," we mean judge or commissioner.

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 has 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. It also explains what information you need to protect with a sealed cover sheet.

Who should not use the Declaration form in this packet?

Declarations are usually not admitted as evidence at a trial.² If you are getting ready for trial, you usually will need to have witnesses appear in person, not by declaration.

A few counties might allow or require oral testimony at motions hearings. 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 form used just for that motion. Example: A *Declaration in Support of Parenting Plan* form. Our

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

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/>.

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 needed information; or
- To respond to another person’s declaration.

Also, you can 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, you do not need more than one witness to give the same information, especially if everyone agrees it is true. If several witnesses would say the same

things, you 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 the declaration says. 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. We explain more 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 more complete General Instructions. The information below is shorter. It has

³ Some motions require special declaration forms not in this packet.

information you will probably need when writing declarations in a case that has already been filed.

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. You may write on only one side of the paper. The first page of each paper that you file must have a three-inch margin (three 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. 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 has 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 court rules to protect privacy. The next boxes explain these rules: [GR 15](#), [GR22](#) and [GR 31](#). Use this information and the instructions for each form to help you decide when you need a sealed cover sheet.

Box #1

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.

Things You Should Not Write in Most of Your Court Papers:

Residence Address (where you live) and Telephone Number: You do not have to write these in court papers. But you do need to write in an address where you can get mail from the court. You should also give the court a phone number where you can be reached.

Social Security/Driver’s License, ID Numbers of Adults and Children: You do not have to write these in court papers. If you do, 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, and so on), and only the last four digits of the account number.

Box #2:

PRIVATE INFORMATION THAT SHOULD BE FILED WITH SEALED COVER SHEETS:

If you use a sealed cover sheet, the other party and the court can still see this information. 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.

Medical or Mental Health Records or Information: If you file papers that have 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.

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. "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 it, sealed under General Rule (GR) 15. There is no packet to help you to do this. There are presently no mandatory forms for this type of motion. 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 other, special requirements for declarations. Also, some motions require special Declaration forms not in this packet.

◆ Check whether your county's local rules or forms are available online at <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 is for. If you are a party, you should fill out the caption and make several copies of the declaration form before you fill in any other information. 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. Examples:

- (for a party) “Susan Marty, age 28, Petitioner” or
- (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, and so on, 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 need 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. Attach it to the appropriate Sealed Cover Sheet form before you file and serve it.

We describe the sealed cover sheet forms 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. We describe the sealed cover sheet forms 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. The witness is swearing the statements are true under the penalty of perjury.

B. Tips on writing a Declaration

When writing a declaration, keep in mind:

- Declarations should be as short as possible. Stick to the main points that you need to make. Put your most important points first. Put the less important points later. The court will not want to read about matters unrelated to the motion.
- The information in the statement must be based on your own personal knowledge (what you saw firsthand), not what someone else told you. One exception: You may talk about what another party has said. *Examples 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.” But 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.”
- Explain how well you know the parties or children in the case. Example: “Ralph has worked for me at Acme Plumbing for 15 years.”
- Type the declaration out or write it neatly in **black or dark blue ink**. If the declaration is hard to read, the court may not read it.
- Be specific. General statements such as “she is a bad mother” or “the child/ren are much happier now, living with Mary” do not help. Instead, the declaration should describe specific things and give some information about when and where incidents took place. Examples: “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. 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. 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. The clerk may reject your form.
- Follow the instructions about using sealed cover sheets.

C. What do I write in my Declaration?

It 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. 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 is 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 makes the children’s meals, who takes them to doctor’s appointments, who grooms them, who washes/irons their clothes, and so on.

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

Unless you learn that your local court rules say 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. Use this cover sheet on any records or correspondence that have information relating to someone’s past, present, or future physical or mental health condition, including past present or future

payments for health care. Some 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

You should try to put this cover sheet on declarations that mention medical or mental health conditions.

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 giving your address or your location information to the other parties, 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)

Use this whenever you are filing certain confidential reports 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 giving your address or your location information to the other parties, 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.

The person preparing the report also 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

Use this form when filing private financial documents 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 giving your address or employer’s address to the other parties, 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 other 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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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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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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**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.