



City of Tacoma  
Office of the City Attorney

Sent via Email [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

September 30, 2020

Susan Carlson, Clerk  
Washington State Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929

RE: Comments on Proposed Court Rule Changes

Dear Ms. Carlson:

Please accept these comments regarding the following rule changes.

CrRLJ 3.4:

While courts should be more sensitive to challenges regarding multiple court appearances, especially given the current pandemic and corollary impacts, this proposed rule change goes too far in requiring “good cause” and a “written order” to require a defendant to appear. This proposal causes numerous concerns. From an efficiency standpoint, it potentially affects the process by which many cases are resolved. Much of the negotiations and resolutions of cases at the municipal level occur at, and in, the courthouse, especially when defense attorneys have difficulty connecting with their clients by other means. This proposal also brings into question the sufficiency of speedy trial waivers executed without a record that they were made knowingly, voluntarily, and intelligently. Lastly, in the current environment of conducting most of our proceedings via Zoom, there is arguably less of a hardship impact as defendants need not travel to and remain at court. CrRLJ 3.4(d)(2) could also be expanded to permit other court proceedings, including entry of guilty pleas, to be done via digital platform even in the absence of agreement of the parties.

A more reasonable and workable solution would allow a Court to waive a defendant’s presence at specific non-essential hearings by request where the Court finds “good cause” and enters a written order. Indeed, there have been times in our current practices where the court has made a written entry on the court order that the defendant need not appear (either with no objection from the prosecution or over our objection). Additionally, nothing in the current rule precludes a defendant from an ability to have his or her presence waived with a properly prepared waiver of presence through counsel.

Clerk of the Supreme Court

September 30, 2020

Page 2

CrRLJ 8.2:

Proposes to specifically allow for the application of a portion of CR 59 to criminal cases for the purposes of a motion to reconsider. We have not had any experience in having to argue the (1) application of CR 59 to the criminal rules, and/or (2) any timeliness issue related to an appeal following the application or denial of application of CR 59. However, because the CrRLJ is silent as to what standard governs a motion for reconsideration, express inclusion of this language would be helpful should this issue present itself for us, and therefore we support adoption of this rule.

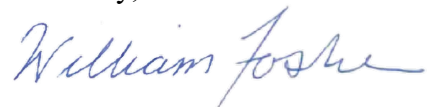
GR 31:

My office supports the proposed change. The changes proposed to GR 31 would enhance therapeutic courts by limiting public access to assessments and treatment reports to encourage defendants to cooperate more honestly with risk/needs assessments, mental health and chemical dependency evaluations, and treatment.

We support the adoption of this rule change as it promotes therapeutic alternatives to prosecution by protecting the sensitive nature of diagnoses and treatment plans, encouraging honest, goal-oriented engagement by court participants and practitioners. It includes a mechanism by which access to the public may be maintained, albeit in a more limited fashion. I understand that the District and Municipal Courts Judges' Association (DMCJA) also supports the change.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "William Fosbre". The signature is written in a cursive, flowing style.

William C. Fosbre  
City Attorney

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Linford, Tera](#)  
**Cc:** [Tracy, Mary](#)  
**Subject:** FW: Comments on proposed State Supreme Court rule changes  
**Date:** Wednesday, September 30, 2020 10:33:01 AM  
**Attachments:** [Comment Proposed Rule Changes Ltr 09302020.pdf](#)

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**From:** Fosbre, Bill (Legal) [mailto:bill.fosbre@cityoftacoma.org]  
**Sent:** Wednesday, September 30, 2020 10:06 AM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** sheilag@awcnet.org  
**Subject:** Comments on proposed State Supreme Court rule changes

Clerk of the Supreme Court

Please accept our comments on the proposed rule changes.

Thank you

-Bill

Bill Fosbre  
City Attorney  
City of Tacoma  
747 Market Street RM 1120  
Tacoma, WA 98402  
(253) 591-5885 (main line)  
[Bill.Fosbre@ci.tacoma.wa.us](mailto:Bill.Fosbre@ci.tacoma.wa.us)