



## WASHINGTON COURTS

# *District and Municipal Court Judges' Association*

### *President*

JUDGE G. SCOTT MARINELLA  
Columbia County District Court  
535 Cameron St  
Dayton, WA 99328-1279  
(509) 382-4812

### *President-Elect*

JUDGE SCOTT K. AHLF  
Olympia Municipal Court  
900 Plum St SE  
PO Box 1967  
Olympia, WA 98507-1967  
(360) 753-8312

### *Vice-President*

JUDGE REBECCA C. ROBERTSON  
Federal Way Municipal Court  
33325 8th Ave S  
Federal Way, WA 98003-6325  
(253) 835-3000

### *Secretary/Treasurer*

JUDGE SAMUEL G. MEYER  
Thurston County District Court  
2000 Lakeridge Dr SW, Bldg 3  
PO Box 40947  
Olympia, WA 98504-0947  
(360) 786-5562

### *Past President*

JUDGE DAVID A. STEINER  
King County District Court  
1309 114th Ave SE Ste 100  
Bellevue, WA 98004  
(206) 477-2102

### *Board of Governors*

JUDGE LINDA COBURN  
Edmonds Municipal Court  
(425) 771-0210

JUDGE KAREN DONOHUE  
Seattle Municipal Court  
(206) 684-7903

JUDGE DOUGLAS J. FAIR  
Snohomish County District Court  
(425) 744-6804

JUDGE MICHAEL FINKLE  
King County District Court  
(206) 477-2121

JUDGE MICHELLE K. GEHLSSEN  
Bothell Municipal Court  
(425) 487-5587

JUDGE MICHAEL J. LAMBO  
Kirkland Municipal Court  
(425) 587-3179

COMMISSIONER RICK LEO  
Snohomish County District Court  
(360) 435-7700

JUDGE SAMUEL G. MEYER  
Thurston County District Court  
(360) 786-5562

JUDGE DOUGLAS B. ROBINSON  
Whitman County Dist. Court  
(509) 397-5297

JUDGE CHARLES D. SHORT  
Okanogan County District Court  
(509) 422-7170

JUDGE TRACY A. STAAB  
Spokane Municipal Court  
(509) 625-4400

April 25, 2017

VIA EMAIL WITH HARD COPY TO FOLLOW

Honorable Charles W. Johnson  
Supreme Court Rules Committee  
c/o Clerk of the Supreme Court  
Temple of Justice  
PO Box 40929  
Olympia, WA 98504-0929

RE: Proposal to Amend CrRLJ 3.4

Dear Justice Johnson and Members of the Rules Committee:

Thank you for the opportunity to comment on the proposed changes to CrRLJ 3.4, which provide that proceedings held pursuant to Chapter 10.77 RCW shall be conducted by video conference.

The District and Municipal Court Judges' Association (DMCJA) Board discussed the proposed amendment during its February and March 2017 meetings. The Board has concerns regarding the mandatory nature of the amendment. In particular, the Board is concerned that courts in small jurisdictions and those with limited budgets will be unable to comply with the technical requirements of the rule.

For this reason, the Board requests that if the proposed amendment is adopted, that "may" is used rather than "shall," and also that "good cause" is clarified. An amended proposal is enclosed to show these suggestions.

Thank you for consideration of this request.

Sincerely,

Judge G. Scott Marinella  
DMCJA President

Enclosure: Amended Proposal to Amend CrRLJ 3.4

cc: DMCJA Rules Committee  
Ms. J Benway, AOC Staff  
Ms. Shannon Hinchcliffe, AOC Staff  
Ms. Sharon Harvey, AOC Staff

STATE OF WASHINGTON

1206 Quince Street SE • P.O. Box 41170 • Olympia, WA 98504-1170  
360-753-3365 • 360-586-8869 Fax • www.courts.wa.gov

**PROPOSED AMENDMENT  
[DMCJA PROPOSED EDIT]**

**CrRLJ RULE 3.4  
PRESENCE OF THE DEFENDANT**

(a) When Necessary. The defendant shall be present at the arraignment, at every stage of the trial including the empanelling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(c) Defendant Not Present. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) Video Conference Proceedings.

(1) Authorization. Preliminary appearances held pursuant to CrRLJ 3.2.1(d), arraignments held pursuant to this rule and CrRLJ 4.1, bail hearings held pursuant to CrRLJ 3.2, and trial settings held pursuant to CrRLJ 3.3(f), may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an in-person hearing, which may in the trial court judge's discretion be granted.

(2) Agreement. Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrRLJ 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) Standards for Video Conference Proceedings. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

(e) Video Conference Proceedings under RCW 10.77

(1) Authorization. Proceedings held pursuant to RCW 10.77 shall may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other except as otherwise directed by the trial court judge. In When these proceedings are conducted via video conference, it is presumed that all participants will be physically present in the courtroom except the forensic evaluator except unless as otherwise provided by these rules, or as excused or excluded by the court for good cause shown. Good cause may include circumstances where at the time of the hearing, the court does not have the technological capability or equipment to conduct the conference by video as provided in this rule. Such video proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Five days prior to the hearing date, any party may request the forensic evaluator be physically present in the courtroom, which may in the trial court judge's discretion be granted.

(2) Standards for Video Conference Proceedings under RCW 10.77. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

**Tracy, Mary**

---

**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Tuesday, April 25, 2017 1:33 PM  
**To:** Tracy, Mary  
**Subject:** FW: DMCJA Proposal to Amend CrRLJ 3.4  
**Attachments:** DMCJA Comment on CrRLJ 3.4 (w Encl).pdf

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

Questions about the Supreme Court Clerk's Office? Check out our website:  
[http://www.courts.wa.gov/appellate\\_trial\\_courts/supreme/clerks/](http://www.courts.wa.gov/appellate_trial_courts/supreme/clerks/)

Looking for the Rules of Appellate Procedure? Here's a link to them:  
[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=app&set=RAP](http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=app&set=RAP)

Searching for information about a case? Case search options can be found here:  
<http://dw.courts.wa.gov/>

**From:** Peterson, Susan  
**Sent:** Tuesday, April 25, 2017 12:04 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** Benway, Jennifer <Jennifer.Benway@courts.wa.gov>; Hinchcliffe, Shannon <Shannon.Hinchcliffe@courts.wa.gov>; Harvey, Sharon <Sharon.Harvey@courts.wa.gov>; Jennings, Cindy <Cindy.Jennings@courts.wa.gov>  
**Subject:** DMCJA Proposal to Amend CrRLJ 3.4

Dear Clerk:

Attached please find the following:

**Letter with Enclosure regarding District and Municipal Court Judges' Association Proposal to Amend CrRLJ 3.4.**

Please let me know if you have any questions or concerns. Thank you and have a wonderful day.

Sincerely,

*Susan M. Peterson*  
Court Association Assistant  
Administrative Office of the Courts  
PO Box 41170  
Olympia, WA 98504-1170  
(360) 705-5278 / (360) 956-5700 Fax  
Email: [susan.peterson@courts.wa.gov](mailto:susan.peterson@courts.wa.gov)