



August 21, 2017

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THE ALLIANCE
for Equal Justice
SUPPORTER

Via email to supreme@courts.wa.gov

Chief Justice Mary Fairhurst and
Honorable Susan L. Carlson
Washington State Supreme Court Clerk
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed ER 413 – Admissibility of Immigration Status

Dear Chief Justice Fairhurst and Ms. Carlson:

The Access to Justice Board appreciates the opportunity to comment on proposed changes to ER 413 now pending before the Court. The Access to Justice Board is fundamentally committed to the principle that the legal system must be accessible to all persons regardless of immigration status and, consistent with this, the threat that immigration status is revealed during legal proceedings should be eliminated or reduced as much as possible, taking into account the legitimate interests of other participants in the legal system.

The Board fully supports that aspect of the proposed rule that addresses the inadmissibility of immigration status in the context of a civil proceeding. Our discussions of the proposed rule, however, revealed that there is a significant disagreement amongst those deeply involved in the criminal justice system about whether ER 413 is necessary and, importantly, whether the problem justifies the adverse consequences the rule may pose for criminal defendants or those already burdened to provide them with legal defense. Because the Access to Justice Board has primarily focused on access to the civil justice system, we are not currently familiar enough with the impacts in the criminal context to take a position in support or against the proposed changes in the criminal justice setting.

The Board strongly supports the ER 413 proposal in the context of civil litigation. The Board abstains from expressing any view on the ER 413 proposal in the criminal context. The Court should not view the Board's abstention from the criminal justice application of the rule proposal as opposition. The Board simply is not well situated to determine whether the proposed changes appropriately

balance the benefits and burdens that the rule proposal would create in the context of the criminal justice system.

Thank you for consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoff Revelle". The signature is fluid and cursive, with the first name "Geoff" being more prominent than the last name "Revelle".

Geoff Revelle, Chair
Access to Justice Board

Cc: David Martin, Washington Association of Prosecuting Attorneys
Andy Miller, Washington Association of Prosecuting Attorneys
Joe Morrison, Columbia Legal Services
Annie Benson, Washington Defenders Association
Amy Muth, Washington Association of Criminal Defense Lawyers
Chris Durbin, ACLU
Grace Huang, Asian Pacific Institute on Gender-Based Violence
Rich Stolz, OneAmerica
Sara Ainsworth, Legal Voice
Paula Littlewood, Washington State Bar Association

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Monday, August 21, 2017 10:41 AM
To: Tracy, Mary
Subject: FW: ATJ Board Letter of Support for ER 413
Attachments: Letter of Support for ER 413 from Access to Justice Board.pdf

Fowarding.

From: Bonnie Sterken [mailto:bonnies@wsba.org]
Sent: Monday, August 21, 2017 9:18 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: David.Martin@kingcounty.gov; abenson@defensenet.org; andy.miller@co.benton.wa.us; amy@amymuthlaw.com; cdurbin@cooley.com; ghuang@api-gbv.org; rich@weareoneamerica.org; sainsworth@legalvoice.org; geoff.revelle@FisherBroyles.com; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Debi Perluss <DebiP@nwjustice.org>; joe.morrison@ColumbiaLegal.org; Paula Littlewood <PaulaL@wsba.org>; Diana Singleton <dianas@wsba.org>
Subject: ATJ Board Letter of Support for ER 413

Good morning,

Attached, please find a letter of support from the Access to Justice Board regarding the proposed ER 413.

Thank you!



Bonnie Middleton Sterken | Justice Programs Coordinator
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1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org
Pronouns: She/Her

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