

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 8:06 AM
To: Tracy, Mary
Subject: FW: Comment to proposed amendment to CrR 3.4

From: Seth Fine [mailto:dpafine@yahoo.com]
Sent: Monday, April 29, 2019 9:32 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment to proposed amendment to CrR 3.4

The 2018 Legislature provided greater protection to defendants who are unable to pay legal financial obligations. This proposed amendment undoes much of the Legislature's work. It should be rejected.

Under the 2018 statutory amendments, a person cannot be sanctioned for failure to pay legal financial obligations without a finding that the failure is willful. RCW 10.01.180(3). The court may, however, use other remedies, such as converting the unpaid amounts to community restitution. RCW 10.01.180(5).

The proposed rule amendment would make use of those remedies largely impossible. The court cannot impose any requirements on the defendant without the defendant being present. Yet under the amendment, the defendant's presence cannot be required unless the State can first prove that the defendant's failure to pay is willful. So the defendant can prevent use of alternative remedies simply by failing to appear.

Worse, the proposed amendment may make it essentially impossible to enforce any legal financial obligations, if the defendant chooses not to appear in court. To obtain a warrant, the State must evidently conduct a financial investigation, without the benefit of any information from the defendant. The expense is likely to render this impractical. So even if a defendant has the ability to pay, nothing will happen if the defendant does not appear.

Under the existing statute, a person who fails to pay legal financial obligations needs to appear in court and explain the situation. The court can then consider the defendant's situation and apply appropriate remedies. Appearing in court is not an unreasonable burden. The proposed amendment to CrR 3.4 is unnecessary and impractical. It should be rejected.

Seth Fine