

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 8:05 AM
To: Tracy, Mary
Subject: FW: Comment on proposed amendment to CrR 3.3

From: Seth Fine [mailto:dpafine@yahoo.com]
Sent: Monday, April 29, 2019 9:15 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on proposed amendment to CrR 3.3

In 2003, this court convened a broadly-based Task Force to review CrR 3.3. I had the honor of serving on that Task Force. It unanimously recommended that time elapsed in district court not be counted against the allowable time-for-trial in Superior Court. The Task Force reasoned that 60 days is a minimal amount of time to conduct necessary pre-trial proceedings. Shortening that time creates procedural traps, without genuinely shortening the time it will take to bring a case to trial. The Report is on this court's website at https://www.courts.wa.gov/programs_orgs/pos_tft/index.cfm?fa=pos_tft.reportDisplay&fileName=Consensus#A9.

Now a much narrower group has recommended reverting to the old rule. They have not, however, pointed to anything that undercuts the Task Force's reasoning. Then as now, few cases in Superior Court can be brought to trial in less than 60 days from arraignment.

The proposed amendment is also badly written. It sets a commencement date under two circumstances: (1) if the charge is initially filed into Superior Court, (2) if the charge is filed into district court, the defendant is detained in jail, and a preliminary hearing is not held. What happens if neither of these circumstances occur? What happens if a charge is filed into district court and the defendant is not detained in jail? Or if a preliminary hearing is held? The rule's failure to address these situations would lead to confusion and uncertainty.

The amendment would also establish a procedural trap. The rule places the duty on the court to schedule a timely trial. Yet under the amendment, the time for trial can be running in Superior Court even though no charges have been filed there. How can the Court perform its duty to schedule a timely trial on a charges that haven't been filed?

This amendment received very little opportunity for public comment. It was reviewed by the Council on Public Defense -- even though it has little to do with that Council's mission. The Council violated its own rules by approving it at a meeting where too few members attended. The Board of Governors then handled it as a "late item," with no advance public notice. The Board does not seem to have been aware of the Task Force report or the opposition to the amendment.

Nothing has happened to justify a change in this rule. The amendment should be rejected.

Seth Fine