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Subject: FW: Comments in support of proposed changes to CrR 3.4 and CrRLJ 3.4 - Presence of the Defendant
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From: Jamila Taylor [mailto:jamila.taylor@defender.org]
Sent: Wednesday, September 30, 2020 3:23 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments in support of proposed changes to CrR 3.4 and CrRLJ 3.4 - Presence of the Defendant

Dear Supreme Court Rules Committee:

The Public Defender Association writes in support of the Washington Defender Association to encourage the Supreme Court to adopt the proposed changes to CrR 3.4 and CrRLJ 3.4. Doing so not only promotes efficiency and a continued commitment to strengthening access to justice for all Washingtonians, but also embodies the evolution of our state's current legal landscape.

The Public Defender Association (PDA) is a non-profit corporation which advocates for justice system reform and develops alternatives that shift from a punishment paradigm to a system that supports individual and community health. We advance justice system reform and alternative practices and policy through several core programs and policy initiatives. Grounding reform in a public health framework, our mission is to achieve social and racial equity and community health through reform of the criminal legal system. As part of this work, PDA engages in direct representation of vulnerable clients who face criminal system impacts, and consistently witness how collateral consequences serve to reduce access to justice and prevent our clients from moving forward in their lives.

PDA has represented several clients who shoulder the massive task of appearing at court hearings. For some, this requirement forces them to drive to court without a license, potentially leading to more fines and possible incarceration. Others are forced to miss work, resulting in a loss of income and possible loss of employment. Other clients may be forced to interrupt mental health or medical treatment, which may cause negative impacts on other aspects of their lives including other pending court matters.

PDA echoes the comments submitted by many members of public and private criminal defense bar who are practicing in urban, suburban and rural communities. We acknowledge that the proposed changes would alleviate the burden on both defendants AND the system alike—the fewer the number of hearings a defendant is required to appear at, the fewer the number of non-essential warrants issued, and the fewer the amount of space and resources being used in a cycle of punishment against indigent Washingtonians. The only modification PDA would suggest is that a verbal or written declaration from defense counsel to suffice as a waiver of appearance on behalf of the client as it may prove difficult to obtain a written waiver by the client themselves.

Creating equitable access to relief is important now more than ever given

Washington's current public health crisis in our jails and prisons. With court closures, delays, Court Order No. 25700-B-626 recommending to forego most in-person hearings due to the COVID-19 outbreak, and mass release of incarcerated individuals in an effort to mitigate the spread of COVID-19, we should fortify access to such relief for all Washingtonians. This moment in time illuminates our justice system as a dynamic, adaptable and reflexive community. These amendments build on that trend of progress and their benefits would long outlive COVID-19 concerns.

Ultimately, allowing a defendant to appear through counsel in the proposed hearings siphons off some of the burden of navigating the criminal legal system, strengthening the attorney-client relationship and allowing the administration of justice through officers of the court. PDA is deeply invested in the reform of this system, in alleviating the burdens of the criminal legal system on indigent and vulnerable Washingtonians, and in further strengthening our resilient communities.

Respectfully submitted on behalf of the Public Defender Association,

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