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October 5, 2020

Dear Rules Committee,

I am a criminal defense attorney who also serves as a judge *pro tem* in courts of limited jurisdiction. I write in support of the proposed amendments to CrR 3.4 and CrRLJ 3.4

As the Committee is aware, the *pro forma* requirement that defendants appear for continuances can create enormous impact to defendants who have strict job or childcare obligations. Many of those impacts are most acutely felt by low-income defendants, who have far less resources available to weather repeatedly missing a shift or finding childcare. When a defendant does fail to appear because of income or childcare considerations, the inevitable bench warrant harms the criminal justice process for all.

Bench warrants stop any speedy resolution for victims. Trial courts and law enforcement expend resources in processing warrants and scheduling additional hearings. And if a defendant is placed into custody, the consequences may be greater than the consequences of the conviction itself, namely more jail time, loss of job, or a child's loss of a caregiver. While some folks in the criminal system may appreciate the pressure of pre-trial incarceration to hasten resolutions of cases, such grease in the wheels of justice are anathema to our system of dignity and presumptive innocence.

I also write to address some of the comments made by the prosecution bar. A common concern seems to be defendants will not be involved in their cases unless physically present for continuances; and that defense attorneys will misrepresent the positions of clients to expediate their own workload. With all due respect, if this Committee feels there is a flood of defense attorneys who are not working with clients between court hearings, or making misrepresentations to the court, discussions of this rule should be put on hold so everyone can address this statewide crisis.

But in the event defense attorneys are diligently and ethically representing their clients, this Committee should consider carefully the comments made by those who are working with their clientele and who have seen the harsh impact of the current model.

Because trial courts ultimately retain discretion to order a defendant's presence and because front line attorneys have seen the real-world consequences of mandated-but-unnecessary defendant appearances, I fully support the proposed change to CrR 3.4 and CrRLJ 3.4.

-Noah Weil



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