



Superior Court Judges' Association- Criminal Law and Rules Committee

Hon. Laura M. Riquelme
Chair

Skagit County Superior Court
205 W. Kincaid, Room 202,
Mount Vernon, WA 98273

Hon. Sabrina Ahrens

Pierce County Superior Court
930 Tacoma Ave. S., Rm 334,
Tacoma, WA 98402-2108

Hon. W. Brent Basden

Clallam County Superior Court
223 E 4th St, Ste. 8,
Port Angeles, WA 98362-3015

Hon. Patricia M. Fassett

Cowlitz County Superior Court
312 SW First Ave.
Kelso, WA 98626

Hon. Marilyn K. Haan

Cowlitz County Superior Court
312 SW First Ave.
Kelso, WA 98626

Hon. David S. Keenan

King County Superior Court
516 Third Avenue, Room C-203,
Seattle, WA 98104

Hon. Jennifer R. Langbehn

Snohomish County Superior Court
3000 Rockefeller Ave. M/S 502,
Everett, WA 98201

Hon. Maryann C. Moreno

Spokane County Superior Court
1116 W Broadway Ave Fl. 3,
Spokane, WA 99260

Hon. Mafé Rajul

King County Superior Court
516 Third Ave.
Seattle, WA 98104

Hon. Kristin V. Richardson

King County Superior Court
516 3rd Ave, Room C-203,
Seattle, WA 98104

Hon. David A. Steiner

King County Superior Court
516 Third Ave.
Seattle, WA 98104

Hon. Aimee M. Sutton

King County Superior Court
401 4th Ave. N., Rm. 2D,
Kent, WA 98032

Hon. Samuel P. Swanberg

Benton/Franklin County Superior
Courts
7122 W Okanogan Pl., Bldg. A,
Kennewick, WA 99336-2359

Hon. Sandra E. Widlan

King County Superior Court
516 Third Ave, Rm. C-203,
Seattle, WA 98104

Date: April 30, 2021

Honorable Charles W. Johnson, Co-Chair

Honorable Mary I. Yu, Co-Chair

Washington State Supreme Court Rules Committee

Temple of Justice

P.O. Box 40929

Olympia, WA 98504-0929

Re: Proposed Amendment to CrR 3.2- Release of the Accused

Dear Justices Johnson and Yu,

The SCJA Criminal Law and Rules Committee applauds Retired Judge Kessler's efforts to address the issue of over incarceration. This committee recognizes that bail is often imposed inconsistently and significantly disadvantages indigent defendants. The statistics from Washington's Pretrial Reform Task Force depict various disadvantages created by pretrial incarceration.

Particularly, defendants detained pretrial are four times more likely to receive a prison sentence than those on pretrial release and are also more likely to receive longer sentences than other similarly situated defendants who are released pretrial. This inequity is contrary to the foundation of our legal system.

In discussing the amendments proposed by Retired Judge Kessler, the committee identified common issues that this proposed rule does not address. For example, defendants who recently and consistently fail to appear for necessary hearings are likely to continue doing so on the current case. Additionally, judges have differing access to pretrial resources that assist in release decisions. Ultimately, the committee doubts that cash bail has any correlation to whether the accused appears in court.

Further investigation in this area is needed to address the issues cited above and many others. This committee would like to participate in a process that involves other stakeholders to develop a fair and efficient pretrial release system.

If the court decides to amend CrR 3.2 based on Retired Judge Kessler's proposal, the committee recommends changing section (a)(3) as follows:

(3) the accused has been released on personal recognizance or bail for an pending offense ~~alleged to pre-date the current charge.~~

Often the matter before the court is not the most recent case in the defendant's case history. Delayed charging decisions and a defendant's personal circumstances can lead to a backlog of cases against a particular defendant that are litigated on different timelines. CrR 3.2 should allow the court to consider those circumstances and exercise its discretion in determining whether to impose bail for a defendant who, at the time of arrest, was on release for a separate pending case.

If you have any questions please contact me at (360) 416-1200 or at 205 W. Kincaid, Room 202, Mount Vernon, WA 98273.

Thank you for your consideration.

Yours truly,



Judge Laura M. Riquelme, Chair
SCJA Criminal Law and Rules Committee

cc: J. Benway, AOC Staff, Tom Creekpaum, AOC Staff

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment on Proposed Amendment to CrR 3.2- Release of the Accused
Date: Friday, April 30, 2021 10:22:34 AM
Attachments: [Letter from SCJA Criminal- Comment on CrR 3.2 final.pdf](#)

From: Creekpau, Tom
Sent: Friday, April 30, 2021 10:22 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Benway, Jennifer <Jennifer.Benway@courts.wa.gov>; Laura M. Riquelme - Judge <lriquelme@co.skagit.wa.us>
Subject: Comment on Proposed Amendment to CrR 3.2- Release of the Accused

Good Morning,

Please see the attached comment on the proposed amendment to CrR 3.2 from the SCJA Criminal Law and Rules Committee.

Thank you,

Tom Creekpau

Sr. Legal Analyst
Administrative Office of the Courts
(360) 357-2157