From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Comment to Proposed Amendment to Rules CrR 3.2 and CrRLJ 3.2
Date: Thursday, April 8, 2021 4:15:56 PM

From: Sugg, Nathan [mailto:Nathan.Sugg@co.snohomish.wa.us]
Sent: Thursday, April 8, 2021 4:09 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment to Proposed Amendment to Rules CrR 3.2 and CrRLJ 3.2

Dear Reader:

This comment is not in favor or against the amendment to CrR 3.2 and CrRLJ 3.2 but instead is intended to identify three concerns regarding the language of the proposed amendment.

First, the proposed amendment does not appear to contemplate defendants who have been held on another offense and are unable to post bail. For example, assume a defendant is held for a violent offense on $50,000 bail and is unable to post the bail. Assume that while the defendant in in jail, the prosecutor's office files a non-violent case from its backlog. Under the language of the rule, the defendant would be held in jail on the violent offense and the court would be without discretion to hold the defendant on the new non-violent charge. The defendant would therefore be unable to earn credit on the newly filed non-violent charge if the plain language of the rule were followed.

Second, the language provides that a person charged with a non-violent crime shall be released on personal recognizance unless "(3) the accused has been released on personal recognizance or bail **for an offense alleged to pre-date the current charge**." Based on the plain language alone, the amendment would appear to permit a court to impose bail if a criminal defendant had ever been released on PR or bail for any prior offense without regard to whether the defendant was currently out on release at the time of commission of the new offense.

Third, this same subsection's reference to "an offense alleged to pre-date" appears to envision simply reviewing the dates of violation of the two offenses which does not appear to have any relation to the stated intent of the amendment. The comments of the Honorable Ronald Kessler suggest that the goal of this section was to identify whether a defendant was on some form of conditioned release at the time of the commission of the new offense. However, the proposed language does not capture this goal and instead seems to reduce the analysis to a question of

whether another offense was committed first.

Thank you for your consideration.

Sincerely,

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