From: OFFICE RECEPTIONIST, CLERK
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From: Greene, Richard [mailto:Richard.Greene@seattle.gov]
Sent: Wednesday, April 20, 2022 5:09 PM
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Subject: proposed change to CrRLJ 7.6

If the defendant can appear remotely, then witnesses also should be permitted to appear remotely under appropriate circumstances, *State v. Milko*, 505 P.3d 1251, 1252 (Wash. Ct. App. 2022) (right to have witnesses physically present at trial is meaningful and important, but it is not an indispensable element of the constitutional right of confrontation), especially since a defendant's due process rights at a probation revocation hearing are not the same as those at trial.

The comments claim that "This proposed amendment would limit RCW 9.95.230," but if such was the intent, the language doing so is unclear at best. Moreover, jurisdiction and sentencing are matters for the legislature and court rules should not be used to *sub silentio* repeal statutes.

The 2-week time limit for hearings under proposed rule CrRLJ 7.6(e) is both arbitrary and unreasonable. Courts of limited jurisdiction perpetually have heavy caseloads. Having to give precedence to a probation revocation hearing over that of trial seems unwise. Neither the time for trial rule nor the constitutional to a right to a speedy trial apply to a probation revocation hearing. *State v. Valentine*, 20 Wash. App. 511, 512, 580 P.2d 1119 (1978). The probation revocation hearing need only be held within a reasonable time. The corresponding Superior Court rule does not include such a time limit.

Written findings are not required. *State v. Serr*, 35 Wash. App. 5, 13, 664 P.2d 1301, *review denied*, 100 Wash.2d 1024 (1983) (In Washington, a court's statements of reasons for revoking probation may take the form of an oral

opinion.); *State v. Anderson*, 119 Wash. App. 1039 (2003). The corresponding Superior Court rule does not include such a requirement. Moreover, in other contents, courts of limited jurisdiction are not required to make written findings that are required in Superior Court. *Compare* CrRLJ 3.6(b) *with* CrR 3.6(b). The failure of the rule to define "good cause" in the words of the case law, *State v. Dahl*, 139 Wn.2d 678, 686, 990 P.2d 396 (1999) (Good cause is defined in terms of "difficulty and expense of procuring witnesses in combination with 'demonstrably reliable' or 'clearly reliable' evidence."), or even reference the applicable case law is bound to confuse trial courts and lead to inconsistent decisions.

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