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**From:** Evans, Alexandra [mailto:[aevans@kingcounty.gov](mailto:aevans@kingcounty.gov)]  
**Sent:** Tuesday, September 28, 2021 8:49 AM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Subject:** CrR 3.4 Proposed Amendments comment

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Good morning,

I am writing today to express my opposition to the proposed amendments to CrR 3.4.

As an attorney who has practiced during the entire pandemic both virtually and in person, I have seen the positives and negatives of having defendants and attorneys appear remotely. Assuming the technology works and does not negatively impact the court proceedings, virtual appearances can be great for simple hearings like pretrials or potentially motions. However, there are many challenges that virtual appearance during trial, sentencing, or pleas would lead to. This comment is a brief summary of only some of those issues.

First, defendants are not able to meaningfully participate in court proceedings when they appear virtually. If a defendant calls into a telephonic line, they may not understand what is going on in the courtroom because they cannot see the parties. If they call in via video conference, often not all parties are on camera, and there is a whole host of issues with audio and video presentation in many courtrooms in Washington, as they are older and not set up for such proceedings. Passing documents back and forth from defendants to their own attorney or to the court clerk is nearly impossible, and documents are vital to court proceedings. Furthermore, the defendant would not be able to meaningful discuss with their attorney while they are on a screen or phone line in open court.

Second, section 3 states that several hearings must include video. However, that section does not include plea hearings, which is very concerning. The judge will be unable to see the defendant's demeanor during the plea and it will be more difficult to determine if the defendant is making a voluntary, knowing, and intelligent waiver of their right to a jury trial, which is arguably the most important constitutional right in criminal proceedings. The defendant is unable to sign the plea

statement or related documents in open court if they appear virtually, which is insufficient for the plea statement, notice of loss of firearms rights, No Contact Orders, etc.

Finally, the logistics of virtual appearance will result in inequitable treatment of defendants with limited means. Many defendants who are indigent may not have access to video and may not have access to high-speed internet required for video appearances. Whether or not a defendant has these means, I can say from personal experience that there are almost always glitches in virtual appearances. That can include the loss of video or audio, disconnecting completely, or being unable to hear one or several parties. Additionally, victims are not allowed this same opportunity to appear virtually. This makes it appear to victims that they are given less consideration from the court than defendants are.

Criminal proceedings are some of the most important court proceedings, as improper practice violate defendants' constitutional rights. Allowing defendants to appear virtually for trial, pleas, sentencing, and other hearings is simply insufficient to maintain proper proceedings. It is in the defendant's best interest, defense counsel's best interest, and the prosecution's best interest for defendants to appear in person for these vital court proceedings.

Thank you,



Alexandra Evans (she/her)

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