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Subject: FW: Comment on Proposed Amendments to CrR 3.4
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From: Wynne, Brian [mailto:Brian.Wynne@kingcounty.gov]
Sent: Thursday, September 30, 2021 8:56 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Amendments to CrR 3.4

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Good morning,

I am writing to provide comments regarding the proposed amendments to CrR 3.4.

Setting aside 1.) the technological issues (e.g. inadequate internet connections and increased court time spent dealing with technological issues); 2.) the impact of technological issues (e.g. increased litigation related to claims of say inadequate connectivity during key portions of hearings); 3.) the adverse impact on a defendant's right to participate (e.g. degradation of the right to observe, understand, and participate in court proceedings); and 4.) the adverse impact on a defendant's right to counsel (e.g. the loss a defendant's right to simultaneous, private communication with counsel) my primary concerns with the proposed amendments are that the amendments will contribute to the erosion of the public's trust in the justice system and courts generally.

Pursuant to these proposed amendments, victims of child molestation, rape and all other offenses would be required to appear in court, in-person, along with all witnesses, but defendants of means will be able to appear remotely. Likewise, jurors will still be required to appear in-person. These participants' perception of the proceedings will inevitably be impacted in a negative fashion when they come to realize that defendants are the only participants who are afforded the many benefits of remote appearances. Moreover, the courts will be asking jurors to make determinations of credibility of testimony of defendants in many cases where credibility is at the heart of the case, particularly in sex offenses. While courts will ask jurors to make these credibility determinations, the court will not be able to provide jurors the assurance that a defendant's testimony is free of external influences. All of these circumstances will contribute to the public's perception of our system of justice, and the negative impact on that perception could be great.

In the end it is rational to conclude that the dignity and decorum of the court as well as the public's perception of fair and appropriate administration of justice will be negatively impacted by these proposed changes to the rule. Therefore, the rule should not be amended.

Sincerely,
Brian Wynne

Senior Deputy Prosecuting Attorney
Special Assault Unit, Vice Chair
King County Prosecuting Attorney's Office