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Subject: FW: Proposed CrR 3.4 comment
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From: Ernsdorff, Gary [mailto:Gary.Ernsdorff@kingcounty.gov]
Sent: Wednesday, September 29, 2021 5:19 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed CrR 3.4 comment

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Good afternoon

I am writing to urge the court to reject the proposed changes to CrR 3.4.

The pandemic made us rethink many aspects bringing defendants to a speedy and fair trial. And many good changes have resulted. Allowing defendants to appear remotely or through counsel made many pretrial hearings more efficient. And I generally support using technology to do our work more efficiently.

However, the proposed expansion of the use of remote appearances to critical stages of a criminal proceeding is going to introduce a litany of problems, issues, and unfair impacts. Some I note below, and some we most assuredly have yet to recognize. Issues will include:

- Dispirit impact on those who can afford and access the technology and those who can't
- Authenticating the participant
- Interfering with a defendant's communications with counsel
- Recognizing and addressing competency issues
- Signing and sharing documents
- Technical problems (connectivity, intermittent "glitches", quality of audio and video feeds) that may not be immediately recognized or that cause undue delay
- Interacting with interpreters (or denying those with interpreter needs from availing themselves in the program)
- The court's loss of direct and immediate control of the parties
- A diminished ability to the jury to observe the defendant

All participants, the Court, State, and Defense, will be at risk of some degradation in the proceedings.

While well-intended, I believe the issues created the proposed changes greatly outweigh the

benefits. For that reason, I urge you to reject the proposed changes to CrR 3.4.

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