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Subject: FW: CrR 3.4 June 2021 proposed amendments
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From: Phillips, Jennifer [mailto:Jennifer.Phillips@kingcounty.gov]
Sent: Thursday, September 30, 2021 9:35 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: CrR 3.4 June 2021 proposed amendments

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I write to express genuine concern about the proposed amendments to CrR 3.4. Here are some of my concerns, as a prosecutor for 20 years:

Any technical issues that arise may not be obvious at the time and it may later be impossible to verify what the defendant missed or did not understand or what parts of testimony were missed by the defendant and/or jurors;

At any testimonial hearing or trial, it will be extremely difficult to ensure that defendant has the same access and time to observe and digest exhibits and simultaneously consult with counsel as testimony is heard and/or exhibits are presented/admitted

The amendments will make verifying identity at critical stages nearly impossible, as collecting prints at sentencing or DNA at sentencing will not occur and in-court identification of the defendant will not occur

The defendant appearing remotely for trials, guilty pleas, and sentencing diminishes the seriousness, importance, and dignity of these proceedings – that is important to all parties and to the public perception of fair administration of justice.

Because victims are required to attend in person but defendants are not, victims will understand that they are being treated with less consideration than the defendant

The amended rule is not a codification of general practice during the pandemic. It will cause significant delays in court proceedings rather than expedite them. Given the backlog of cases awaiting trial, it does not make sense to create additional barriers to expeditious proceedings in the courtroom.

While the party at greatest risk is the defendant, inevitable problems noted above will result in unnecessary reversals, retrials, and withdrawal of pleas. Victims and the community have an interest in finality of convictions that is not well served by this rule.

Several convictions carry mandatory remand or discretionary remand, but a defendant appearing remotely for trial/sentencing/verdict cannot be remanded, contrary to statute and public safety.

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