

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: CrR 3.4 amendments
Date: Monday, September 13, 2021 2:30:46 PM

From: Marchesano, Joseph [mailto:Joseph.Marchesano@kingcounty.gov]
Sent: Monday, September 13, 2021 2:23 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Marchesano, Joseph <Joseph.Marchesano@kingcounty.gov>
Subject: CrR 3.4 amendments

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

Hello,

I am writing to voice my opposition to the June 2021 proposed amendments to CrR 3.4.

Contrary to the stated purpose of the rule, having defendants routinely appear remotely for pleas, trials, and sentencings will slow down court proceedings substantially, as the court has to assure technical capacity that will assure that the defendant is not distracted and can observe everything in the courtroom, and deal with technical failures that are inevitable. The rule creates a host of potential issues relating to technical failures, voluntariness of waivers of constitutional rights, voluntariness of pleas, and even the identity of the person who appeared (particularly by phone).

Technical failures aside, the rule will degrade a defendant's opportunity to observe, understand, and participate in court proceedings. Remote participation often makes it difficult to comprehend both the words spoken and meaning conveyed nonverbally. This may make it difficult to understand the judge and the full meaning of witnesses' testimony. Defendants may be tempted to appear remotely because it seems easy but will not understand how much of the proceedings they will not fully experience and may not understand. They cannot anticipate technical challenges or distractions that will arise. The amendments diminish the right to counsel – the defendant will not have the opportunity to simultaneously consult with counsel during the proceedings. If the court has to halt proceedings for a private conversation, it may be to the defendant's or the State's detriment. Interruptions to consult with counsel also will irritate the jury and delay the proceedings. As a result, remote defendants will be reluctant to (or unable to) consult with counsel to the extent physical presence allows.

Finally, the defendant is being given a privilege to appear remotely for all hearings, while no other

participants (including witnesses and victims) are given the same opportunity. Others who are seeking justice from the criminal justice system will question why the defendant is given this privilege. 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.

Joseph Marchesano | Senior Deputy Prosecuting Attorney