



September 29, 2021

Justices of the Washington Supreme Court  
P.O. Box 40929  
Olympia, Washington 98504-0929  
VIA E-MAIL: supreme@courts.wa.gov

RE: Proposed Changes to CrR 3.4(e) and (f)

Dear Justices:

The Washington Defender Association (WDA) supports many of the changes the Superior Court Judges' Association (SCJA) has proposed to CrR 3.4(e) and (f) because they would increase fairness, clarity and efficiency. We oppose the proposed change that would permit local rules eliminating telephonic hearings.

We support the proposed change to CrR 3.4(e)(2) that would allow all defendants who must personally appear to do so remotely. As you know, CrR 3.4(d) requires courts to find good cause before mandating personal appearances. Some courts interpret that rule as permitting generic findings of good cause that compel most or all defendants to personally appear at routine hearings. For example, Spokane County Superior Court has adopted a local rule saying it always has good cause to require that defendants personally appear at readiness hearings and hearings where a party will request a continuance.<sup>1</sup> The proposed change to CrR 3.4(e)(2) would ease the burden on people charged in such courts by allowing them to avoid multiple trips to hearings.

We support the proposed change to CrR 3.4(e)(4) that would allow defense attorneys to sign documents for their clients with approval. That suggestion is similar to provision 13(a) in this Court's Fourth Revised and Extended Order Regarding Court Operations, which works well for busy public defenders and facilitates remote proceedings.

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<sup>1</sup> The local rule is on the Washington Courts website at [https://www.courts.wa.gov/court\\_rules/pdf/LCR/32/SUP/LCR\\_Spokane\\_SUP.pdf](https://www.courts.wa.gov/court_rules/pdf/LCR/32/SUP/LCR_Spokane_SUP.pdf), pages 70-71.

We support the proposed changes to CrR 3.4(e)(4) and (f) that would set uniform standards for the technology courts and parties use during remote appearances. Mandating that the accused and their lawyers and interpreters are able to communicate confidentially during hearings is necessary to protect the right to counsel. Requiring clear audio and video connections that allow everyone who attends hearings to understand what is happening is essential.

Finally, we oppose the proposed change in the last sentence of suggested CrR 3.4(e)(3) that would allow superior courts to adopt local rules requiring that remote appearances take place over video. Some of the accused do not have access to the internet. Permitting courts to end telephonic appearances would require them to travel to court if they need to attend hearings in their cases.

We ask that you adopt the proposed changes to CrR 3.4(e) and (f) that would automatically authorize remote appearances for many hearings, allow lawyers to sign for their clients with permission and standardize requirements for technology. We ask that you reject the proposed change that would let jurisdictions eliminate telephonic hearings.

Sincerely,

/s/Magda Baker

Magda Baker

Misdemeanor Resource Attorney

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
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**Subject:** FW: proposed CrR 3.4- WDA comment  
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**Attachments:** [9.29.21\\_WDA comment\\_proposed CrR 3.4.pdf](#)

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**From:** Magda Baker [mailto:Magda@defensenet.org]  
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**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
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Please see attached comment on proposed changes to CrR 3.4(e) and (f).

Thank you for your time and attention.

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