

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR BENTON AND FRANKLIN COUNTIES**

7122 W Okanogan, Building A, Kennewick, WA 99336

April 28, 2023

Ms. Erin L. Lennon
Washington State Supreme Court Clerk
P.O. Box 40929
Olympia, WA 98504-092

Re: Comments re: JuCR 7.16

Dear Clerk Lennon:

The current version of JuCR 7.16 should be rescinded. It has left the Juvenile Justice system a paper tiger in which youth are largely left to decide if they wish to participate on a voluntary basis. Both sections of JuCR 7.16 are highly destructive to the operation of a functional juvenile justice system. Each section is addressed separately.

Juvenile Court Rule 7.16 (b)

The final sentence of JuCR 7.16(b) is a bizarre and unworkable standard for issuing a warrant during an active offender case. Taken literally, it requires a finding regarding the “individual circumstances of the Failure to Appear”. In most cases the only information before the Court is that the youth is not in court. No meaningful finding can be made as to why they are not in court, or where they are currently located. Therefore, irrespective of known facts (such as severity of the charges, danger to the youth themselves, number of prior FTA’s, etc.), the Court cannot make the necessary finding that the “circumstances of the FTA” meet the standard for issuance of a warrant. All the court can do is note the FTA, strike the trial date, continue the hearing, and notify the youth again that a hearing has been set and his/her presence is requested. While it is true that if the alleged offender is close to 18 years of age upon filing, they risk facing adult charges if they simply refuse to come back to court. However, if the youth is younger, they can simply refuse to come to court and know that as time goes by there will be less and less interest and ability to pursue the matter by the time the Juvenile Court loses jurisdiction. More importantly, the beneficial nature of Juvenile Court rehabilitation services will never even be offered since we have literally no method to bring the case to a conclusion.

At a minimum, 7.16(b) should be modified to allow for issuance of a warrant in an active offender case after numerous FTAs, and/or not apply to felony cases.

Juvenile Court Rule 7.16(a)

The effect of JuCR 7.16(a) is to leave compliance with the Court's orders a voluntary decision with virtually no consequences. This undermines the specific rehabilitative goals of the Juvenile Justice Act, as well as the inherent authority and power of the Court.

Youth on Community Supervision are ordered to participate in rehabilitative services, and to make pro-social choices. The requirements can include counseling, drug treatment, school attendance, curfew, meeting with Juvenile Probation Counselors, etc. The purpose is to put the youth on a positive path forward. The current court rule undermines the entire disposition order. All services and requirements are voluntary because we cannot enforce the order. Because of JuCR 7.16, many youths simply ignore the requirements of their Community Supervision from the moment they walk out of the disposition hearing. For youth who choose not to participate in their Community Supervision, their daily violations of the court order can almost never be shown to pose a "serious threat to public safety." For example, a youth may run away from home, not attend school, never show up to drug treatment, never meet with probation, avoid community service hours, break curfew overdose on fentanyl, or even be sexually trafficked. None of these allegations meet the standard of "serious threat to community safety."

Juvenile Offenders may be youthful, but they are not stupid. A large percentage of offenders in our jurisdiction have figured out there is no method of enforcing the conditions listed in their disposition order. On a weekly basis we hold hearings on the docket where all the court can do is list the Failure to Appear and re-set the hearing for another week.

As currently written, JuCR 7.16(a) abolishes the statutorily mandated rehabilitative function of the Juvenile Justice system. If that was not the intended purpose, then the power of the Court to enforce its own orders must be restored.

Sincerely,

BENTON-FRANKLIN COUNTIES SUPERIOR COURT

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Benton/Franklin County Superior Court Comments to Proposed Rules
Date: Friday, April 28, 2023 2:10:32 PM
Attachments: [image001.png](#)
[FINAL JuCR 7.16 Comment to Supreme Court.doc](#)
[image003.png](#)

From: Josee Saldua-Potvin <Josee.Saldua-Potvin@co.benton.wa.us>
Sent: Friday, April 28, 2023 1:32 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: RE: Benton/Franklin County Superior Court Comments to Proposed Rules

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.

Dear Clerk of the Supreme Court,

The Benton/Franklin Superior Court bench would like to submit their comments to proposed Juvenile Court Rule 7.16, attached hereto.

If there is anything additional that you require from our court, or if we have submitted our comments incorrectly, please let me know.

Thank you.

Kindly,

Josee Saldua-Potvin (She/Her)

Assistant Court Administrator

Benton & Franklin Counties Superior Court
7122 W. Okanogan Pl., Suite A130
Kennewick, WA 99336
509-736-3071 ex. 3219



[-> Courtroom Webex Links & Courtroom Phone Numbers <-](#)

[Links for FAQ's:](#)

Daily Schedule: [Superior Court Daily Schedule](#)
How to: [Request Special Set Hearings](#)
How to: [Contact a Court Reporter](#)
How to find: [Info & Forms by Case Type](#)
How to: [Request Court Interpreter](#)
How to Request: [eMotion Account & jMotion Account](#)

CONFIDENTIALITY STATEMENT - This message contains information that may be confidential per RCW 13.50.050 or 42 CFR, part 2. If this message was sent to you in error, any use, or disclosure or distribution of its contents is prohibited. If you receive this message in error, please contact me at the e-mail address listed above and delete this message without printing, copying, or forwarding it. Thank you.
