



SUPERIOR COURT OF KITSAP COUNTY
JUVENILE AND FAMILY COURT SERVICES

1338 SW Old Clifton Rd
Port Orchard, WA 98367-9113
Phone: (360) 337-5401 | Fax: (360) 337-5402

Erin L. Lennon,
Washington State Supreme Court Clerk
Regarding: Suggested changes to JuCR 7.16

Dear Erin,

Limiting the number of youths in our detention facilities during a pandemic makes rational sense; however, after the pandemic, making this a permanent rule which limits the authority of Superior Court judges to enforce their own court orders is unnecessary and contrary to the Juvenile Justice Act, Chapter 13.40 RCW.

Without the assistance of JuCR 7.16, detention populations had long been declining and were at historic lows when this rule was created. As such, adopting JuCR 7.16 as a permanent rule appears to be trying to solve a problem that did not exist.

Further, the rule was drafted and adopted without important input from those who have dedicated their careers to the furtherance of juvenile justice in Washington. The result is a rule that conflicts with legislation. Under RCW 13.40.010 the legislature established the purposes of the Juvenile Justice Act (JJA), listing thirteen *equally* important purposes of the JJA:

- (a) Protect the citizenry from criminal behavior;
- (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
- (c) Make the juvenile offender accountable for his or her criminal behavior;
- (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- (e) Provide due process for juveniles alleged to have committed an offense;
- (f) Provide for the rehabilitation and reintegration of juvenile offenders;
- (g) Provide necessary treatment, supervision, and custody for juvenile offenders;
- (h) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;
- (i) Provide for restitution to victims of crime;
- (j) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels;
- (k) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services;
- (l) Provide opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensure that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed; and

(m) Encourage the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

JuCR 7.16 undermines the juvenile court's ability to fulfill *any* of these purposes. When youth ignore their court hearings or probation the juvenile court misses important opportunities to provide rehabilitation and treatment. It also leaves a youth not being held accountable while at the same time leaving victims without the opportunity for restitution or to participate in the juvenile justice process.

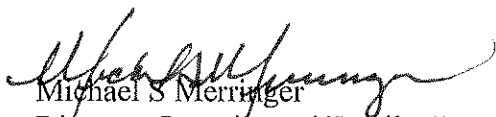
Further, the rule infringes on the legislature's authority to establish the standards for taking a youth into custody. RCW 13.40.040(2) and 13.40.050¹ set out the standards for taking a young person in detention. In these statutes, the legislature has determined that there are basically eight different reasons a youth can be taken into detention – including when a young person is a danger to themselves. In the absence of one of these standards being met the youth cannot be detained. JuCR 7.16 only allows for detention when a youth is a danger to the community – all but ignoring the other seven reasons.

As with all legislation, the JJA and its subsequent amendments were adopted after the robust public participation process inherent in legislative action. Unfortunately, JuCR 7.16 was adopted as a permanent rule without any public participation.

Superior Court judges hear juvenile court cases. They review all the pertinent issues facing the youth and parents and carefully create a disposition that will give the youth and parents the best path towards rehabilitation and success. Adopting rules which effectively limit those judges to when and how they can enforce their orders without allowing a court to consider the particular needs of a youth, parents, and/or the case is harmful to the youthful offender, to victims, and to the community who entrusts us with this important responsibility.

The Supreme Court needs to completely rescind JuCR 7.16.

Sincerely,


Michael S. Merringer
Director, Juvenile and Family Court Services

¹ JuCR 6.6 states that these statutes are the *only* authority for detention. JuCR 7.16 also conflicts with JuCR 7.5.

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Subject: Suggested changes to JuCR 7.16

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Dear Erin,
Please see the attached letter regarding suggested changes to JuCR 7.16
Thank you,

Michael

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