

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Comment to proposed change to RAP 18.8  
**Date:** Wednesday, April 24, 2024 8:29:35 AM

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**From:** Andrew Van Winkle <avanwinkle8@gmail.com>  
**Sent:** Tuesday, April 23, 2024 7:33 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment to proposed change to RAP 18.8

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Good Evening,

I am writing to comment on the Washington State Court of Appeals Rules Committee's proposed addition to RAP 18.8, creating a streamlined process for seeking a first extension of time to file a brief. This comment represents my personal views and is not presented in my capacity as a court employee. Further, I take no position on whether the proposed rule is good policy or whether it should be adopted.

If adopted, I recommend two changes to maintain internal consistency within the RAPs. Because proposed RAP 18.8(b) refers to an act a party is required to perform, the word "shall" needs to be changed to "should" to maintain consistency with RAP 1.2(b). Under RAP 1.2(b) the word "shall" is only used when referring to an act by a non-party and the word "should" is used when referring to an act a party is required to perform. The word "appeal" in the proposed rule needs to be changed to "review proceeding" to maintain consistency with other RAPs, including RAPs 18.12 (governing accelerated review). As used in the RAPs, the term "appeal" usually refers to matters filed as a matter of right under RAP 2.2. The term "review proceeding" is used when a term is needed to encompass appeals, but also personal restraint petitions and cases accepted on discretionary review. Because briefs are filed in matters other than appeals and because "any review proceeding" may be accelerated under RAP 18.12, the reference to "appeals" in the portion of the proposed rule discussing briefs in accelerated cases should be changed to "review proceeding."

Sincerely,

Andrew Van Winkle