

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Commenting on Proposed Amendments to Court Rules  
**Date:** Tuesday, January 30, 2024 3:51:24 PM  
**Attachments:** [1.18.24 mtg - proposed rule changes summarized.docx](#)

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**From:** Hedlund, Sharon <SLHEDLUND@spokanecounty.org>  
**Sent:** Tuesday, January 30, 2024 3:47 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** FW: Commenting on Proposed Amendments to Court Rules

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### CrR/CrRLJ3.2 Release of Accused

(b) **Showing of Likely Failure to Appear—Least Restrictive Conditions of Release.** If the court determines that the accused is not likely to appear if released on personal recognizance, the court shall impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, or, if no single condition gives that assurance, any combination of the following conditions:

...

(4) ~~Impose bail require the execution of a bond in a specified amount and~~ **allow the accused to elect to satisfy the bail amount through any one of the following: the execution of a bond with sufficient sureties, a deposit of cash in lieu thereof, or by the deposit in the registry of the court in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the performance of the conditions of release, less court costs not to exceed fifty dollars, or forfeited for willful violation of any condition of release. If this requirement is imposed, the court must also authorize a surety bond under section (b)(5);**

~~(5) Require the execution of a bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;~~

...

(d) **Showing of Substantial Danger—Conditions of Release.** Upon a showing that there exists a substantial danger that the accused will commit a violent crime or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice, the court may impose one or more of the following nonexclusive conditions:

...

(6) .... If the court determines under this section that the accused must post a secured or unsecured bond, the court shall consider, on the available information, the accused's financial resources for the purposes of setting a bond that will reasonably assure the safety of the community and prevent the defendant from intimidating witnesses or otherwise unlawfully interfering with the administration of justice; if the court imposes bail, the court shall permit the accused to satisfy the bail amount in accordance with (b)(4).

Is the “registry of the court” now going to be responsible for keeping track of, and tracking down, these defendants like the bail bond companies do?

### CrRLJ 3.4 Appearance of the Defendant

In addition to minor wording changes, adds this section:

**(b) Appearance.** A defendant's appearance through counsel requires that counsel affirm, in writing or in open court, that they have consulted with the defendant since the last appearance and that the defendant waives the right to be present at the instant hearing, unless the matter is stayed pursuant to proceedings under chapter 10.77 RCW.

It would be helpful if defense counsel were also required to have informed the defendant of what will be requested at said hearing.

### CrR/ CrRLJ 4.7 Discovery

(h) Regulation of Discovery.

(1)-(2) [Unchanged]

(3) *Custody of Materials.* Any materials furnished to ~~an~~ a defendant and/or attorney pursuant to these rules shall remain in the exclusive custody of the defendant and/or attorney and be used only for the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court, and shall be subject to such other terms and conditions as the parties may agree or the court may provide. ~~Further, a defense attorney shall be permitted to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecuting authority or order of the court. Further, each Municipal, District and Superior Court shall, through the local rule-making process under CrR/CrRLJ 1.7, publish guidelines for redactions within three months of adoption of this rule. Defense counsel may redact discovery consistent with these guidelines and provide a copy of the discovery to the accused.~~ Each defense attorney shall maintain a duplicate copy of discovery furnished to the represented defendant that show the redactions made in accordance with this court rule. The duplicate copy of discovery with redactions shall be kept in the defendant's case file for the duration of the case.

a. A prosecuting attorney may motion the court for an order to modify redactions beyond the Court's published guidelines by scheduling a hearing within 7 days of the discovery being provided to defense counsel to address what additional redactions beyond their guidelines are required.

b. A defense attorney may motion the court for an order to modify redaction conditions.

I am not sure how subsection "a" would come into play since there is no mechanism for the prosecutors to be notified.

### CrR/ CrRLJ 8.3 Dismissal

Dismissal

[Submitted by defense bar]

(a) [Unchanged]

(b) On Motion of Court. The court, in the furtherance of justice after notice and hearing, may dismiss any criminal prosecution due to arbitrary action or governmental misconduct when there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial. The court shall set forth its reasons in a written order.

(c) [Unchanged]

There is already confusion regarding whether a court should dismiss "with" or "without prejudice" under subsections "a" and "b" since neither explicitly identify the method like subsection "c". A fair reading of subsection "b" supports dismissal with prejudice in cases based upon these findings. Removing the requirement that prejudice be found in subsection "b" suggests that these continuances would be without prejudice. Which makes sense if the court is going to be allowed essentially unfettered ability to dismiss if they perceive arbitrary action or governmental misconduct.

Sharon L. Hedlund  
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## **Proposed amendments to court rules with comments due by April 30, 2024**

summary by Donna Wise, King County PAO Senior DPA (1.16.24)

(the link takes you to the GR9 cover page, which has a link to the proposed rule at the top)

### **CrR/ CrRLJ 3.2 Release of Accused**

- **requires response**

Release of Accused

[Submitted by defense bar]

[see separate proposed change to CrRLJ 3.2 below]

(b) **Showing of Likely Failure to Appear—Least Restrictive Conditions of Release.** If the court determines that the accused is not likely to appear if released on personal recognizance, the court shall impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, or, if no single condition gives that assurance, any combination of the following conditions:

...

(4) Impose bail ~~require the execution of a bond in a specified amount and~~ allow the accused to elect to satisfy the bail amount through any one of the following: the execution of a bond with sufficient sureties, a deposit of cash in lieu thereof, or by the deposit in the registry of the court in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the performance of the conditions of release, less court costs not to exceed fifty dollars, or forfeited for willful violation of any condition of release. If this requirement is imposed, the court must also authorize a surety bond under section (b)(5);

~~(5) Require the execution of a bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;~~

...

(d) **Showing of Substantial Danger—Conditions of Release.** Upon a showing that there exists a substantial danger that the accused will commit a violent crime or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice, the court may impose one or more of the following nonexclusive conditions:

...

(6) .... If the court determines under this section that the accused must post a secured or unsecured bond, the court shall consider, on the available information, the accused's financial resources for the purposes of setting a bond that will reasonably assure the safety of the community and prevent the defendant from intimidating witnesses or otherwise unlawfully interfering with the administration of justice; if the court imposes bail, the court shall permit the accused to satisfy the bail amount in accordance with (b)(4).

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### **CrRLJ 3.3 - Time For Trial**

Time For Trial

- **respond?**

[Submitted by BJA Remote Proceedings Work Group]

#### **(a) General Provisions.**

(3) *Definitions.* For purposes of this rule:

(i)-(ii) [Unchanged.]

~~(iii) "Appearance" means the defendant's physical presence in the trial court. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence~~

and (B) the presence is contemporaneously placed on the record under the cause number of the pending charge.

(iv) (iii) “Arrestment” ....

**(c) Commencement date.**

(1) [Unchanged.]

(2) *Resetting of commencement date.* On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. ...

(i) [Unchanged.]

(ii) *Failure To Appear.* The failure of the defendant to appear for any proceeding at which the defendant’s ~~presence~~ appearance was required. The new commencement date shall be the date of the defendant’s next physical appearance, remote appearance, or appearance through counsel in the court’s discretion. The prosecutor shall be notified of the appearance and the appearance must be contemporaneously placed on the record under the cause number of the pending charge.

(iii)-(viii) [Unchanged.]

A couple of other non-substantive changes are included in this proposal.

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**CrRLJ 3.4 - Appearance Of The Defendant**

Appearance Of The Defendant

[Submitted by BJA Remote Proceedings Work Group, with defense counsel “strong feelings”]

In addition to minor wording changes, adds this section:

**(b) Appearance.** A defendant’s appearance through counsel requires that counsel affirm, in writing or in open court, that they have consulted with the defendant since the last appearance and that the defendant waives the right to be present at the instant hearing, unless the matter is stayed pursuant to proceedings under chapter 10.77 RCW.

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**CrRLJ 7.6 - Probation**

Probation

[Submitted by BJA Remote Proceedings Work Group, with dissents]

**(c) Revocation or Modification of Probation.** The court shall not revoke or modify probation except (1) after a hearing in which the defendant shall be present physically or remotely appears or (2) upon stipulation of the parties. The defendant has the right to ~~be physically present~~ appear at all evidentiary hearings and any hearing the defense sets to reconsider bail or conditions of release. The court has discretion to allow the defendant to appear through counsel ~~or remotely.~~

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**CrR/ CrRLJ 4.7 Discovery**

Discovery

[Submitted by defense bar]

**- requires response**

(h) **Regulation of Discovery.**

(1)–(2) [Unchanged]

(3) **Custody of Materials.** Any materials furnished to ~~an~~ a defendant and/or attorney pursuant to these rules shall remain in the exclusive custody of the defendant and/or attorney and be used only for the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court, and shall be subject to such other terms and conditions as the parties may agree or the court may provide. ~~Further, a defense attorney shall be permitted to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecuting authority or order of the court.~~ Further, each Municipal, District and Superior Court shall, through the local rule-making process under CrR/CrRLJ 1.7, publish guidelines for redactions within three months of adoption of this rule. Defense counsel may redact discovery consistent with these guidelines and provide a copy of the discovery to the accused. Each defense attorney shall maintain a duplicate copy of discovery furnished to the represented defendant that show the redactions made in accordance with this court rule. The duplicate copy of discovery with redactions shall be kept in the defendant's case file for the duration of the case.

- a. A prosecuting attorney may motion the court for an order to modify redactions beyond the Court's published guidelines by scheduling a hearing within 7 days of the discovery being provided to defense counsel to address what additional redactions beyond their guidelines are required.
- b. A defense attorney may motion the court for an order to modify redaction conditions.

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### CrR/ CrRLJ 8.3 Dismissal

- requires response

Dismissal [Submitted by defense bar]

(a) [Unchanged]

(b) On Motion of Court. The court, in the furtherance of justice after notice and hearing, may dismiss any criminal prosecution due to arbitrary action or governmental misconduct when there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial. The court shall set forth its reasons in a written order.

(c) [Unchanged]

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### RAP 9.6 - Designation Of Clerk's Papers And Exhibits

[Submitted by WA Office of Public Defense] Designation Of Clerk's Papers And Exhibits

[A totally separate proposed change to **RAP 9.6** is described below]

New subsection:

**(b) Copies Necessary for Preparation of Designation.** On request, the trial court clerk shall provide, via postal mail, electronic mail, or Internet file transfer, copies of all documents in the court file and all exhibits, regardless of format, to the parties. Copies shall be in substantially the same form as the original (e.g., copies of color photographs must be provided in color), except that the clerk may provide photographs of cumbersome exhibits that cannot feasibly be copied, such as large maps or diagrams. The clerk may charge appropriate fees for copies in accordance with applicable law. Nothing in this subsection shall be interpreted to mandate copying of

exhibits whose copying is otherwise prohibited by law, such as exhibits protected under RCW 9.68A.180. Nothing in this subsection shall be interpreted to mandate copying of exhibits that consist of physical items that cannot be duplicated, such as firearms, clothing, or drugs.

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### **RAP 9.14 (new) – Appellate Counsel Access To Trial Court Record And Exhibits**

Appellate Counsel Access To Trial Court Record And Exhibits

[Submitted by Court of Appeals Rules Committee]

The clerk of the trial court shall treat appellate counsel who appears for or is appointed to represent a party on appeal as counsel for the party for purposes of accessing the trial court record, including sealed and confidential records in juvenile proceedings. The clerk may require appellate counsel to provide the name of a specific attorney serving as appellate counsel, not simply the name of the appointed law firm or organization.

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### **RAP 10.10 – Statement of Additional Grounds for Review**

Statement Of Additional Grounds For Review

[Submitted by OPD and Appellate Court Clerks]

(d) **Time for Filing.** The statement of additional grounds for review should be filed within 35 days after the filing of the brief filed by the defendant’s counsel. The defendant’s counsel is responsible for promptly advising the defendant of the substance of this rule when they provide the defendant a copy of the brief being filed by counsel. mailing of a notice from the clerk of the appellate court advising the defendant of the substance of this rule. If the defendant is represented by counsel, the clerk will mail the notice to the defendant’s counsel, who should promptly forward the notice to the defendant with a copy of the opening brief. The clerk will advise all parties if the defendant files a statement of additional grounds for review.

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### **RAP 12.4 – Motions For Reconsideration Of Decision Terminating Review**

Motion for Reconsideration Of Decision Terminating Review

[Submitted by Supreme Court Clerk’s Office]

(a) **Generally.** A party may file a motion for reconsideration only of a decision by the judges (1) terminating review, or (2) granting or denying a personal restraint petition on the merits. The motion should be in the form .... **A party may not file a motion for reconsideration of a decision by a single judge.** A party may not file a motion for reconsideration of an order refusing to modify a ruling by the commissioner or clerk, nor may a party file a motion for reconsideration of a Supreme Court order denying a petition for review.

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### **RAP 13.5 - Discretionary Review Of Interlocutory Decision [of COA]**

Discretionary Review Of Interlocutory Decision

[Submitted by Supreme Court Clerk's Office]

A party has 30 days after an interlocutory decision of the COA to seek discretionary review in the supreme court. The amendments provide that the 30-day period to file runs from the later of the decision and disposition of any timely motion for reconsideration or motion to publish that decision.

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### **RAP 16.7 – PRP – Form of Petition**

Personal Restraint Petition - Form Of Petition

[Submitted by Court of Appeals Rules Committee]

Adds a line to the PRP form. “My anticipated release date is \_\_\_\_\_.”

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### **RAP 18.6 – Computation of Time**

Computation Of Time

[Submitted by Court of Appeals Rules Committee]

Defines “end of day” for purposes of filing/service as 5:00 p.m. Pacific Time.

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### **RAP 18.8 – Waiver of Rules and Extension and Reduction of Time**

Waiver Of Rules And Extensions And Reduction Of Time

[Submitted by Court of Appeals Rules Committee]

Adds:

**(b) Streamlined Extensions of Time for Filing Briefs in the Court of Appeals.** If a party in the Court of Appeals has not previously filed a motion for an extension of time to file a brief authorized by RAP 10.2(a)-(c), that party may obtain a single streamlined extension of time to file that brief not to exceed 30 days. A party requesting a streamlined extension of time shall file a written request as set forth in RAP Form XX. The clerk will approve requests that comply with this rule and will provide a new schedule. The clerk will inform parties not eligible for relief under this subsection as to the appropriate method to obtain relief. A streamlined extension of time to file a brief is not available if an appeal has been accelerated.

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### **Proposed New RAP 18.25 – Use of Initials – When Required - comment**

[Submitted by King County Prosecuting Attorney's Office]

Use Of Initials - When Required

(a) Except as provided in subsection (d), minors shall be referred to by their initials in all documents filed for the public record in criminal proceedings and civil commitment actions pursuant to chapter 71.09 RCW.

(b) For purposes of this rule, “minor” means any person under the age of eighteen (18) at the time that any portion of the relevant crime occurred, regardless of their age when the document is filed for the public record.

(c) Except as provided in subsection (d), all victims and alleged victims of the following offenses shall be referred to by their initials in all criminal proceedings and civil commitment actions pursuant to



chapter 71.09 RCW: (1) any offense contained in chapter 9A.44 RCW, (2) any offense contained in chapter 9A.88 RCW, (3) any offense contained in chapter 9A.86 RCW, (4) any offense alleged to have been committed with sexual motivation as defined in RCW 9.94A.030(48), (5) a violation of RCW 9A.56.120 or RCW 9A.56.130 when the threat is based on exposing past sexual conduct, or if the victim was being extorted to commit sexual acts, (6) a violation of RCW 9A.40.100 based on causing the victim to engage in either a sexually explicit act or a commercial sex act, or (7) any other offense defined as a “sex offense” under RCW 9A.44.128 or RCW 9.94A.030.

(d) This rule does not apply:

(i) If the appellate court determines that using a minor’s or victim’s full name is necessary to uphold a constitutional right.

(ii) To minor defendants in either adult court criminal proceedings or civil commitment proceedings under chapter 71.09 RCW.

(iii) To documents filed under seal.

(iv) In non-criminal proceedings, except civil commitment actions pursuant to chapter 71.09 RCW.

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## **CR 28 and 30 – Depositions**

Person Before Whom Depositions May Be Taken and Depositions Upon Oral Examination  
[Submitted by Byers & Anderson, Inc. dba B&A Litigation Services]

The amendments define anyone recording a deposition as an “officer” and requires the officer be independent of the parties. (Based on my reading of the proposal with no experience in that area.)

**Separate** proposed amendment to **CR 30** and **CRLJ 26** would allow depositions to be taken by remote means. If another party objects, the court will decide.

CR 30: Depositions Upon Oral Examination CRLJ 26: Discovery

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## **CR 39 – Trial by Jury or By the Court**

Trial By Jury Or By The Court [Submitted by BJA Remote Proceedings Workgroup]

Authorizes entirely remote civil trials only by agreement of the parties. A court may allow some lawyers or participants to appear remotely during an in-person trial.

A similar amendment is proposed to **CRLJ 38**: Jury Trial

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## **[Proposed GR, superior ct and LJ rules] ARLJ 3 – Definition of Terms**

ARLJ 3: Definition Of Terms (I only see this published in the RLJ context)

[Submitted by OPD and Appellate Court Clerks.]

As used in these rules, unless the context clearly requires otherwise:

(1) “Appear” or “appearance” means a physical appearance, remote appearance, or appearance through counsel.

- (2) “Appear through counsel” and “appearance through counsel” means that counsel appears on behalf of the plaintiff, defendant, petitioner, or respondent.
- ~~(6)~~(3) "City" shall be construed to include towns.
- (4) “Counsel” means a person admitted to the practice of law by order of the Washington State Supreme Court.
- ~~(4)~~(5) "Court" means any court inferior to the superior court.
- (6) “Court proceeding” means all court hearings, depositions, and all other proceedings over which the court exercises jurisdiction.
- ~~(2)~~(7) "Judge" shall include every judicial officer authorized, alone or with others, to hold or preside over any court of limited jurisdiction, or any court inferior to the superior court which may be hereinafter established.
- ~~(3)~~(8) "Oaths" include affirmations.
- ~~(5)~~(9) "Offenses against the State" shall, wherever appropriate, include offenses against a county or a city by virtue of violation of an ordinance or resolution.
- (10) “Participant” means any person appearing in a court proceeding and includes, but is not limited to (A) the plaintiff, defendant, petitioner or respondent; (B) counsel for the plaintiff, defendant, petitioner or respondent; (C) witnesses; (D) interpreters; (E) jurors; and (F) court reporters for depositions.
- (11) “Physically appear” and “physical appearance” means present in-person at the location of the court proceeding.
- ~~(4)~~(12) "Prosecuting Attorney" or "prosecutor" includes deputy prosecuting attorneys, and city attorneys, corporation counsel, and their deputies and assistants, or such other persons as may be designated by statute or court rule.
- (13) “Remotely appear” and “remote appearance” means a telephonic appearance or appearance by remote technology approved by the court.
- (14) “Remote technology” means technology that permits all participants to see and hear each other during the proceedings, speak as permitted by the judge, and allows confidential communications between counsel and client. The remote connection shall be of sufficient quality to ensure that participants are clearly visible, and the audio connection permits the making of the official court record of the proceedings.
- ~~(7)~~(15) "State", whenever appropriate, shall include a city or town.
- (16) “Telephonic” means audio connections that permit all participants to hear each other during the proceedings, speak as permitted by the judge, and allows confidential communications between attorney and client. The audio connections shall be of sufficient quality to permit the making of the official court record of the proceedings.
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## **Proposed New GR 41 – Jury Selection by Using Remote Technology**

[Submitted by BJA Remote Proceedings Workgroup] Jury Selection By Using Remote Technology

Authorizes jury selection using remote technology in all cases (no need for the parties to agree). Provides procedure for remote voir dire. Includes a prohibition on jurors using filters or virtual backgrounds to alter the appearance of the space in which they are physically located.

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**There are also proposed amendments to: (comments due April 30, 2024)**

**APR 11 – Mandatory CLE** – Adds requirement for one hour of CLE every 3 years in two new areas: mental health and technology security. Separates equity/inclusion/bias CLE from ethics CLE requirement. Complex rule and explanation. [Mandatory Continuing Legal Education \(MCLE\)](#)

**ARLJ 11 – Probation Dept** – No substantive change. [Misdemeanant Probation Department](#)

**CR 26 – Discovery** – Amends (b), a provision related to discovery of expert witnesses. [General Provisions Governing Discovery](#)

**CR 59 – New Trial, Reconsideration, Amendment** – Amends (b), the time limit for filing the motion. Normally 10 days, it is extended to 21 days for persons who are incarcerated. [New Trial, Reconsideration, And Amendment Of Judgments](#)  
An incarcerated person proposes the same rule, as a new GR 3.2. [Motion By An Incarcerated Person For New Trial Or Reconsideration](#)

**CRLJ 41 – Dismissal of Actions** – Amendment to (b)(2) permits the clerk to serve parties with a notice of pending dismissal (based on inaction) by electronic means. [Dismissal Of Actions](#)

**CRLJ 56 – Summary Judgment** – Requires that a copy of this rule be served along with the motion for summary judgment. [Summary Judgment](#)

**CrRLJ 3.2 – Release of Accused** – [Proposed by BJA Remote Proceedings Workgroup]: Amends so that a judge, in considering conditions of release, shall consider the defendant’s history of response to “court orders to personally appear” and to provide that if the defendant does not appear when “personal appearance is required,” the court may issue a bench warrant. [Release Of Accused](#)

**ELC 2.14 – Restrictions on Representing or Advising Respondents of Grievants** – Permits former BOG members to represent lawyers in disciplinary proceedings within 3 years of leaving office under some circumstances. [Restrictions On Representing Or Advising Respondents Or Grievants](#)

**GAL rules** – many proposed changes. The proponent explains that they “principally incorporate updated terminology and statutory references in accordance with RCW 11.130, [UGA]. The UGA introduces the role of court visitor in both adult and minor guardianships.” [GALR 1, 2, 4, 5, 6, and 7](#)

**GR 11.3 – Remote Interpretation** – Would allow remote interpretation without a finding of good cause in non-criminal proceedings and for good cause in all criminal proceedings. The GR 9 proposal by the BJA Remote Proceedings Workgroup includes a long justification and notes the opposition of the WA Interpreter Commission. [Remote Interpretation](#)

**IRLJ 3.3 - Procedure At Contested Hearing** – Would allow a defendant in a contested hearing to appear through counsel, if counsel has filed a notice of appearance and a waiver of the defendant’s presence. [Procedure At Contested Hearing](#)

**IRLJ 6.6 – Speed and Weight Measuring Device** – Provides for certification of weight-measuring devices in a manner similar to speed-measuring devices.

Speed and Weight Measuring Device: Design And Construction Certification

**RAP 9.5 – Report of Proceedings** – Eliminates the requirement that the party filing a brief forward a copy of the VRP to the party with the right to file the next brief, if the latter participates in e-filing and so already has received electronic copies of the VRP.

Filing And Service Of Report Of Proceedings - Objections

**RAP 9.6 – Designation of CP and Exhibits** – If counsel is appointed after the notice of appeal is filed or discretionary review is granted, the 30 day deadline for filing the designation runs from the appointment of counsel.

Designation Of Clerk's Papers And Exhibits

**RAP 9.7 – Preparing CP for Court of Appeals** – The maximum page limit of each volume of CP is increased from 200 to 500 pages. Cost provisions are modified.

Preparing Clerk's Papers and Exhibits For Appellate Court

**RAP 10.2 – Time for Filing Briefs (Service)** – Provides that separate proof of service is not required as to parties or amici who participate in e-filing.

Time For Filing Briefs

**RAP 10.4 – Preparation and Filing of Brief** – Provides explicitly that pictorial images may be included in the body of a brief or in an appendix and may be in color.

Preparation And Filing Of Brief By Party

**RAP 18.5 – Service and Filing of Papers** – Specifies that service of a copy is not required if the person at issue participates in e-filing.

Service And Filing Of Papers

**RPC 1.5, 5.4, and 7.3:** Relate to a lawyer sharing fees with certain lawyer referral services.

[https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.proposedRuleDisplay&ruleId=6144](https://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=6144)

### **There are many other proposed amendments relating to remote proceedings:**

**ARLJ 15 – NEW – Appearances by Participants.** Addresses physical/ remote appearances. Allows a court to permit any appearance to be remote or through counsel.

Appearances By Participants

**CR 1 – Scope of Rules** – Adds that “proceedings held by remote means are permitted.”

Scope Of Rules

**CR 7 and CRLJ 7– Pleading Allowed; Form of Motions** – Amended to permit oral argument on civil motions to be by “remote means,” not just conference call.

Pleading Allowed; Form of Motions

**CR 43 – Taking of Testimony** – Allows remote testimony by agreement and provides standards for the court to determine when to allow remote testimony over objection.

Taking Of Testimony

**CR 45 – Subpoena** – A subpoena must specify whether the witness must testify in person or by remote means.

Subpoena

**CRLJ 43 – Taking of Testimony** – Addresses remote testimony. It removes the requirement that the court find “compelling circumstances” before allowing remote testimony. [Taking Of Testimony](#)

**CRLJ 45 – Subpoena** – Changes “attend” to “appear.” [Subpoena](#)

**CRLJ 77.04 - CRLJ Administration Of Oath** – Eliminates reference to “coming to the stand,” in light of remote testimony. Oath must be given before testifying. The oath-taker is not required to stand up. [CRLJ Administration Of Oath](#)

**CrRLJ 2.2(c) - Warrant Of Arrest Or Summons Upon Complaint** – “The warrant ...shall command the defendant be arrested and ~~brought forth with~~ appear before the court issuing the warrant.” [Warrant Of Arrest Or Summons Upon Complaint](#)

**CrRLJ 2.5(c) – Procedure on Failure to Obey Citation** – “The court may order the issuance of a bench warrant for the arrest of any defendant who has failed to appear ~~before the court, either in person or by a lawyer,~~ in answer to a citation and notice....” [Procedure On Failure To Obey Citation And Notice](#)

**CrRLJ 3.2.1 - Procedure Following Warrantless Arrest - Preliminary Hearing** – Substitutes “appear” before a court for “must be brought” before a court. [Procedure Following Warrantless Arrest - Preliminary Hearing](#)

**CrRLJ 4.1 – Arraignment** – Eliminates definition of “appearance,” which is to be included in proposed amendments to rule ARLJ 3. [Arraignment](#)

**CrR 3.4 – Presence of Defendant** – Substitutes “remote” for “video conference” throughout. Eliminates the requirement that an interpreter be located next to the defendant. [Presence Of The Defendant](#)

**CrRLJ 4.6 – Depositions, CrRLJ 4.8 – Subpoena, and CrRLJ 6.12 – Witnesses:** Generally, “attend” is replaced by “appear.” [Depositions](#) [Subpoena](#) [Witnesses](#)

**CrRLJ 7.3 – Judgment** – The judgment and record must include “(h) The parties ~~present~~ appearing, including ....” [Judgment](#)

**IRLJ 3.4 – [Infractions]** – At infraction hearings, witnesses “may not be compelled to ~~attend~~ appear.” [Hearing On Mitigating Circumstances](#)

**IRLJ 3.5 - Local Rule Options** – nothing, really. [Local Rule Options](#)

**IRLJ 6.7 - Identity Challenges And Relief From Judgment** – Allows remote appearance. [Identity Challenges And Relief From Judgment](#)

**JuCR 11.23 (NEW) - Proceedings Using Remote Technology Authorized** – Allows remote appearances in dependency matters at the court’s discretion. [Proceedings Using Remote Technology Authorized](#)