

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelyn](#)  
**Subject:** FW: comments on proposed rule changes  
**Date:** Monday, April 29, 2024 11:22:09 AM

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**From:** Colin Hayes <Colin.Hayes@clark.wa.gov>  
**Sent:** Monday, April 29, 2024 11:14 AM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** comments on proposed rule changes

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Hello. Please note these comments:

**Re: proposed amendment to CrR 8.3 (and CrRLJ 8.3):** This proposal should be rejected. First, it is not necessary. The proponents fail to identify any particular problem under the current rule that calls for this “fix.” Second, it could lead to disparate outcomes in different jurisdictions based on similar facts. Third, allowing for dismissal without a showing of prejudice will lead to reduced public confidence in the justice system. Fourth, this proposal goes against the concept that judges should not dismiss a case based on “personal and private notions” of fairness:

[T]he due process clause does not permit a court to abort criminal prosecution simply because it disagrees with a prosecutor's judgment. The court's role is not to define due process in line with “personal and private notions” of fairness but rather to determine whether the State's conduct violates ““fundamental conceptions of justice which lie at the base of our civil and political institutions.””

*State v. Moen*, 150 Wn.2d 221, 226, 76 P.3d 721 (2003) (citations omitted).

**Re: proposed amendment to CrR 3.2 (and CrRLJ 3.2):** This proposal should be rejected. When defendants pay 10% of the bail amount to a bail bond company, those bail bond companies also require defendants to provide a surety for the remaining 90%. This better ensures compliance. The proposal will lead to increased bail amounts to “adjust” for the change in rule. Courts already have discretion to use this option for 10% posting, thus the change is unnecessary. Also, the bail bondsman helps ensure that defendants are returned to court, especially after an FTA and notice of forfeiture on the bond. This would not occur in situations where money is directly posted with the court.

**Re: proposed amendment to CrR 4.7 (and CrRLJ 4.7):** This proposal should be rejected in its current form. The idea of local court rules setting forth redaction guidelines is a good idea. However, the defense should be required to provide the State with notice of intent to provide

discovery to defendants along with the proposed redactions. The State should then have a period of time (e.g., two weeks) to review the proposed redactions and, if necessary, contact the victims in the case to gain input. If the State does not respond to defense within that period of time or file a motion with the court, the defense should be able to proceed with providing the redacted discovery to their client.

**Re: proposed amendment to CrRLJ 3.3:** This proposal allows for “gamesmanship” by certain defendants in terms of avoiding / delaying trials. Mechanisms already exist for defendant to appear remotely and through counsel. This change is unnecessary.

**Re: proposed new rule RAP 18.25:** this proposal should be adopted. This is a commonsense approach to protecting the privacy and dignity of victims.

Regards,

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