

LEESA MANION (she/her)
PROSECUTING ATTORNEY



King County

Subject: Request for Comprehensive Review and Public Vetting of Proposed Amendment to CrR and CrRLJ 3.2

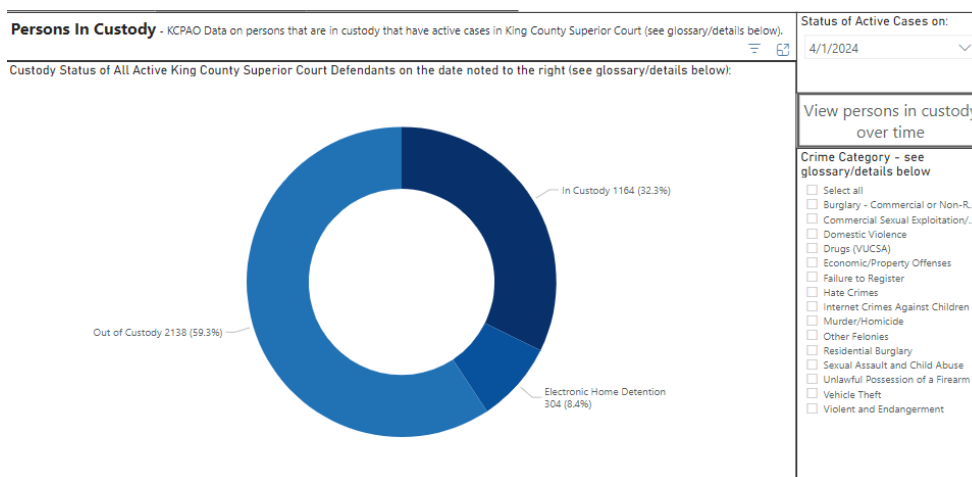
Dear Clerk of the Supreme Court,

As the Chair of the Domestic Violence Unit at the King County Prosecuting Attorney's Office, I am compelled to address the proposed amendment to CrR and CrRLJ 3.2, which effectively eliminates cash bail by allowing defendants to post an appearance bond without additional security. Given the profound implications of this change, particularly in domestic violence cases, a thorough analysis and public vetting process are essential.

Effectively Eliminating Cash Bail:

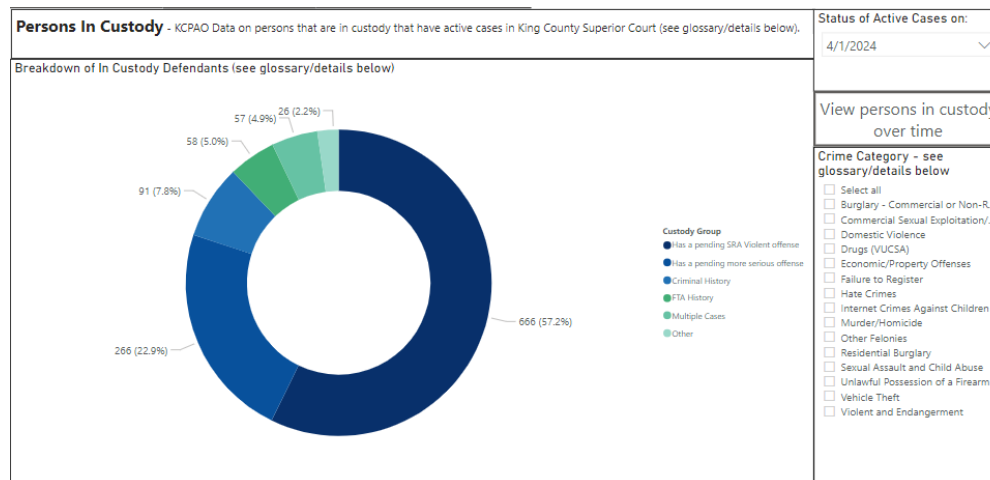
The proposed amendment effectively eliminates cash bail in all but name, reducing any bail amount set by 90%, with any forfeiture limited to the 10% posted. The proposed reduction is so substantial as to effectively eliminate cash bail to ensure compliance with court mandates and appearance at trial. This significant shift of policy should warrant a more robust debate and consideration of all potential impacts.

The proposed amendment would dramatically reduce the current pretrial jail population. There is often speculation and misunderstanding on who is in custody and for what in any jurisdiction. The King County Prosecuting Attorney makes this information readily available, see [Data Dashboard - Prosecuting Attorney's Office - King County, Washington](#). As of the most recent data, April 1, 2024, 32.3% of those charged with a felony in King County are held in confinement, and 8.4% are on Electronic Home Detention:



The proposed changes would significantly reduce the number of violent offenders held in custody pending trial in King County. Of those 32.3% in confinement, 80.1% are being held on a pending SRA violent or SRA most serious offense (57.2% has a pending SRA violent offense,

22.9% has a pending most serious offense). The remainder are those noted as having multiple failures to appear and multiple cases (5.0% who failed to appear on two or more occasions on pending case, 4.9% with two or more separate pending felony cases, and 7.8% with five or more prior convictions):



Importance of Public Vetting and Inclusion of Impacted Voices:

A rule change of this magnitude should not be made without extensive public and legislative engagement. A bail system reform, particularly as significant as this, should involve a comprehensive planning and vetting process that includes extensive public and legislative engagement to ensure transparency and broad consensus. It is imperative that this process includes advice from a broad spectrum of stakeholders, including legal experts, victim advocacy groups, and the general public. Importantly, the voices of those directly impacted—such as crime victims and their families, as well as defendants and their families—must be heard. Washington State Constitution (Article 1, Section 35) mandates meaningful victim participation in the criminal justice process. The significant reduction in bail compromises this participation by potentially accelerating the release process without sufficient consideration of victim impact statements and safety assurances, thereby diminishing the role victims play in release proceedings. To make this change without significant public vetting and inclusive stakeholder process risks the reputation and credibility of the court system and will lead to legislative backlash.

Comparison with Other States and Lack of Public Vetting:

Other states, such as Illinois and New York, have undergone extensive planning and public vetting processes before implementing significant changes to their bail systems. These states have engaged with lawmakers, stakeholders, and the public to ensure that reform measures are well-understood and carefully considered. In contrast, the proposed amendment in Washington could be seen as bypassing this crucial public engagement process, implementing a fundamental change that the public or lawmakers have not sufficiently vetted. Again, this is particularly concerning given the broad implications of such a reform on existing laws and the overall legal framework concerning public safety.

Concerns Over Public and Victim Safety:

The amendment risks the safety of domestic violence victims by potentially facilitating quicker

and less regulated release of offenders. This concern is heightened by the fact that domestic violence often involves patterns of coercive and controlling behavior, which may escalate if perpetrators are easily released. Lowering financial barriers for bail in domestic violence cases without incorporating more analysis of risk will endanger the lives and well-being of victims and the community.

Incorporation of Specific Factors for Domestic Violence Cases:

The "[Evolving Practices for a More Comprehensive Response to Domestic Violence E2SHB 1517 Domestic Violence Risk Assessment Work Group Report to the Washington State Legislature and Governor Jay Inslee, October 2020](#)" recommends specific amendments to CrR 3.2 and CrRLJ 3.2 to better address pretrial release decisions in domestic violence cases. The report, led by the Gender and Justice Commission, suggests that the Supreme Court, in its rule-making authority, should amend Subsection (e) to include factors specifically tailored to domestic violence incidents. These recommendations aim to minimize potential biases by focusing on factors related to the current offense, social factors, and victim concerns, as detailed on pages 47 and 52 of the report.

The goal of making the bail system more equitable should do not compromise the safety and rights of victims or the integrity of our legal system. We urge the committee to reconsider the proposed amendment, taking into account the detailed concerns raised, and to engage in a thorough public vetting process.

Thank you for considering these critical issues

Respectfully,

A handwritten signature in black ink, appearing to read "David Martin", written over a horizontal line.

David Martin
Chair, Domestic Violence Unit
King County Prosecuting Attorney's Office