From: OFFICE RECEPTIONIST, CLERK
To: Martinez, Jacquelynn
Subject: FW: Proposed amendment to CrR 3.2 and CrRLJ 3.2
Date: Thursday, April 25, 2024 8:10:17 AM

From: Wise, Donna <Donna.Wise@kingcounty.gov>
Sent: Wednesday, April 24, 2024 8:25 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed amendment to CrR 3.2 and CrRLJ 3.2

To: Supreme Court

Re: Proposed amendment to CrR 3.2 and CrRLJ 3.2

I write to oppose the proposed amendments to CrR 3.2 and CrRLJ 3.2 that relate to posting bail.

The proposed amendments to these rules allow a defendant to satisfy bail set by a judge by posting 10 percent of that amount with no security.

Most importantly, this reduction to 10 percent of the bail set would be incorporated in CrR 3.2(d) and CrRLJ 3.2(d), which apply when the court finds "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." Significant conditions may be set to protect victims and public safety, and a secured or unsecured bond set. The court must consider the accused's financial resources in setting an amount that will reasonably assure the safety of the community and witnesses. By definition, automatically reducing that bail by 90 percent is insufficient to reasonably assure that safety.

CrR 3.2 and CrRLJ 3.2 establish a presumption of release of defendants on personal recognizance. If the court concludes that their appearance cannot be reasonably assured, subsection (b) of each rule provides that the least restrictive conditions of release shall be imposed, which may include secured or unsecured bond. Under the current rule, the court may order an appearance bond, which is satisfied by posting 10 percent of the amount set and an agreement to pay the remainder if conditions of release are violated. Because all relevant facts, including the defendant's financial circumstances, are presented to the court, the conditions set are the least restrictive to assure

appearance. There is no sense to automatically reducing any bail amount set by 90 percent. By the terms of the rule, that amount is not sufficient to assure appearance.

In addition to reducing bail set by 90 percent, the proposal provides that any forfeiture of the 10 percent posted based on non-appearance or other violation of the conditions of release is limited to that 10 percent posted, and even that can be forfeited only with proof that the violation was willful, an impossibility if the defendant cannot be located. The incentive that the court believed was necessary to assure compliance is thus reduced by 90 percent.

This proposal does not recognize that the rule already requires the court setting bail to consider the defendant's financial resources and that the court has discretion to impose an appearance bond. The proposal also does not acknowledge that the person or entity that posts security has an incentive to ensure the defendant does not violate the conditions of release and so is likely to assist the defendant in meeting those conditions and assist in locating a defendant who fails to appear. The proposal disregards the danger to victims, witnesses, and the public that is a factor in setting bail when a defendant poses a substantial danger of committing violent crimes or intimidating witnesses. Reducing by 90 percent the amount a judge has determined is necessary to protect victims and the public is reckless.

The proposed amendments defeat the purposes of the rules and should be rejected.

Respectfully,

Donna Wise

Donna Wise
Senior Deputy Prosecuting Attorney

King County Prosecutor's Office
W554 King County Courthouse
Seattle, WA 98104