



King County

**Department of
PUBLIC DEFENSE**

Anita Khandelwal, Director

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April 30, 2024

Justice Mary Yu

P.O. Box 40929

Olympia, WA 98504-0929

Dear Justice Yu,

With this proposed rule change to CrR 3.2/CrRLJ 3.2, we seek to mitigate one of our criminal legal system's greatest inequities: the criminalization of poverty through the bail system.

By law an individual presumed to be innocent but held on bail may obtain their release in three ways: 1) posting the full bail amount (cash bail); 2) depositing a refundable 10% of an ordered bond with the court (deposit bail), or 3) paying a non-refundable 10% premium to obtain a surety bond through a private bail bond agency (surety bail).

However, in practice, courts very rarely offer accused people the option of deposit bail, effectively forcing indigent people to choose between paying a private company a non-refundable premium for their release or remaining in jail. The wealth extracted from low-income communities across the country due to this practice is significant: the ACLU and Color of Change estimate that the private bail bonds industry generates as much as \$2.4 billion nationwide every year.¹ And if the bail bond companies determine that a person lacks sufficient collateral, that person may have no option other than to remain in jail, risking loss of their job, home, and children.

This proposed amendment to CrR 3.2/CrRLJ 3.2, Release of Accused, would require courts to offer accused persons the option of making a 10% cash deposit of the bail amount directly to the court, which would be returned at the conclusion of their case. While this amendment will not solve all the issues with the bail system, it is a significant step in reducing the inequity of the current system, in which people who cannot afford full bail amounts must pay private bail companies for their release, if these companies choose to help them at all.

¹ See Color of Change and American Civil Liberties Union's Campaign for Smart Justice, "Selling Off Our Freedom: How Insurance Companies Have Taken Over Our Bail System" (Oakland, CA: 2017), available at <https://www.aclu.org/publications/selling-our-freedom-how-insurance-corporations-have-taken-over-our-bail-system>.

Washington should join the many other states -- including Oregon, Kentucky, Massachusetts, Wisconsin, and Nebraska -- that have adopted similar bail reform rules.² By amending CrR and CrRLJ 3.2, Washington can mitigate the harm the criminal legal system inflicts on people with low incomes who are charged with crimes and presumed innocent.

Sincerely,

Anita Khandelwal, Director
King County Department of Public Defense

Shannon Perez-Darby, Founder
Accountable Communities Consortium

Jazmyn Clark, Smart Justice Policy Program Director
ACLU-WA

Nicole Zayas Manzano, Deputy Director of Policy
The Bail Project

Nicholas Oakley, Director of Policy & Strategy
Center for Children & Youth Justice

Prachi Dave, Managing Director of Policy and Advocacy
Civil Survival

Providence Kamana, CEO
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Dominique Davis, CEO
Community Passageways

Kim Ford, Chief of Staff
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Creative Justice

Stephen Woolworth, Ph.D, CEO
Evergreen Treatment Services

² Kentucky, Wisconsin, and Oregon, along with Illinois, rely on systems like the one proposed here, in which individuals pay deposits to courts instead of private businesses, and have expressly outlawed the private bail bond industry. U.S. Commission on Civil Rights, *The Civil Rights Implications of Cash Bail* (Jan. 2022), <https://www.usccr.gov/files/2022-01/USCCR-Bail-Reform-Report-01-20-22.pdf>, at 70. In Massachusetts, the private bail bond industry is still allowed to operate, but the state-run program has effectively ended it, since most individuals prefer to pay a refundable deposit to the court rather than a nonrefundable one to a bail bond company. Allie Preston, The Center for American Progress, *Fact Sheet: Profit Over People: Inside the Commercial Bail Bond Industry Fueling America's Cash Bail Systems* (July 6, 2022), <https://www.americanprogress.org/article/fact-sheet-profit-over-people/>.

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Kim Serry

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Comment on Proposed CrR 3.2/CrRLJ 3.2 (Release of Accused) Amendments from King County DPD and Others
Date: Tuesday, April 30, 2024 4:01:52 PM
Attachments: [Comment on Proposed CrR 3.2 and CrRLJ 3.2 \(Release of Accused\) Amendment from King County DPD.pdf](#)

From: Khandelwal, Anita <Anita.Khandelwal@kingcounty.gov>
Sent: Tuesday, April 30, 2024 3:56 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Hurley, Katherine <Katherine.Hurley@kingcounty.gov>
Subject: Comment on Proposed CrR 3.2/CrRLJ 3.2 (Release of Accused) Amendments from King County DPD and Others

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Good afternoon,

The King County Department of Public Defense and dozens of co-signatories submit the attached comment in support of the proposed amendments to CrR 3.2 and CrRLJ 3.2 (Release of Accused). Thank you for your consideration.

Sincerely,

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