

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



LEESA MANION
PROSECUTING ATTORNEY

JUSTICE
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April 29, 2024

Clerk of the Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendments to CrR/CrRLJ 3.2.

Dear Justices:

Thank you for seeking comments to the proposed amendments to the Superior Court Criminal Rules (CrR) and Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) submitted by the proponents.¹ After carefully reviewing them, and in consultation with the victim services community, I strongly urge you to reject the amendments because they are flawed and unwarranted.

A. Proposed Amendment to CrR 3.2

The proposed amendment to CrR 3.2 has significant structural implications. The unnecessary changes create a logically inconsistent and ineffective rule that will negatively impact community safety.

Proposed CrR 3.2 effectively reduces any bail imposed by a court by 90% because it requires courts to accept a defendant's choice to satisfy the bail by posting just 10% of the set amount directly to the court with no security. The proposed amendment does not impose any liability for the full bail if a defendant flees or otherwise violates the conditions of release and lacks any meaningful enforcement mechanism. In fact, it does not even permit forfeiture of the 10% posted if the defendant flees and cannot be located. Under the current rule, the court already has complete discretion to order an appearance bond, which can be satisfied by posting 10% of the bail set, accompanied by an agreement to pay the remainder if conditions of release are violated. These appearance bonds do not require doing business with a bail bond company. This option is not used frequently because it suffers the same problems outlined above, but it is still available to courts should they feel it appropriate in a particular case. In short, the solution

¹ Although my comments focus on the proposed changes to the Criminal Rules (CrR), they apply with equal force to the proposed changes to the Criminal Rules of Limited Jurisdiction (CrRLJ), which are identical, and should be considered accordingly.

sought by the proponents is already available to judges under the current rule, but requiring judges to accept this option effectively removes a judge's discretion in setting certain, appropriate conditions of release and undermines the intent and functionality of the rule.

The proposed amendment will also negatively impact community safety. CrR 3.2(d)(6) directs a court to set bail in an amount "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." The proposed amendment will effectively reduce that amount by 90%, making it significantly more likely that a defendant will bond out, even in cases where serious and violent charges are pending and a court has found a "substantial danger that the accused will commit a violent crime." This drastic reduction in the necessary amount of bail also increases the likelihood that unrelated third parties will facilitate a defendant's release in these types of cases. Under the current rule, if a third party wants to post bail on behalf of a defendant, they typically need to post the full bail amount. But with the proposed amendment, these third parties would only need to post 10% of the ordered bail and could do so in cases where they have absolutely no connection to the defendant or the victims. In turn, when these third parties post bail on behalf of a defendant, it removes at least one of a defendant's incentives to comply with conditions of release and to appear to court. The decisions of third parties to post bail on behalf of defendants are unregulated and are not required to consider the risk to public safety.

Finally, what the proponents do not acknowledge in their cover sheet is that under the current rule, a bail bonding entity has a direct incentive to assist defendants in complying with the conditions of release and appearing for court. These entities also have an incentive to return a defendant to court if they fail to appear or the conditions of release are violated. This amendment all but removes that interested party and their incentive to assist courts and law enforcement. It also removes a defendant's additional incentive to comply with the terms of their agreement with the bail bonding company. While I recognize that there are obvious inequities in the current bail system, the proposed amendment is not the proper way to address them. As written, the amendment is too flawed and poses too great a risk to community safety to justify its implementation in order to address such an important, complex, and nuanced issue.

I respectfully urge you to reject the proposed amendment to CrR/CrRLJ 3.2.

Sincerely,



LEESA MANION
King County Prosecuting Attorney

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Proposed Amendments to CrR/CrRLJ 3.2
Date: Tuesday, April 30, 2024 9:24:49 AM
Attachments: [image001.png](#)
[Letter Opposing Proposed Amendment to 3.2 - Leesa Manion - FINAL.pdf](#)

From: Colasurdo, Mary <Mary.Colasurdo@kingcounty.gov> **On Behalf Of** Manion, Leesa
Sent: Tuesday, April 30, 2024 9:09 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Amendments to CrR/CrRLJ 3.2

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Good morning, Justice of the Supreme Court.

Please find the attached letter from King County Prosecutor Leesa Manion. Thank you!

Best,
Mary Colasurdo



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