

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelyn](#)
Subject: FW: Proposed Amendments to CrR 8.3 and CrRLJ 8.3
Date: Tuesday, April 30, 2024 11:47:49 AM

From: Kristie Barham <kristie.barham@piercecountywa.gov>
Sent: Tuesday, April 30, 2024 11:46 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Amendments to CrR 8.3 and CrRLJ 8.3

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Re: Proposed Amendments to CrR 8.3 and CrRLJ 8.3

I am writing in opposition to the proposed amendments to CrR 8.3 and CrRLJ 8.3 that substantially expand the trial court's authority to dismiss a criminal case.

The proposed amendment will allow trial courts to dismiss criminal cases without any showing of prejudice to the defendant. It will allow dismissals based solely on the individual views of the assigned judge without any showing that the defendant's right to a fair trial was affected. Such unstructured decision-making will lead to disparity across cases—not only within individual counties but also across the state—based on the random assignment of a case to a particular judge.

The proposed amendment will allow dismissal of a criminal case based solely on the judge's disapproval of a decision made by a prosecutor. It will allow dismissal based on the judge's personal opinion about the charges. This invites violations of the separation of powers doctrine by allowing trial courts to improperly substitute their judgment for that of the prosecutor. The decision to determine and file appropriate charges is vested in the prosecuting attorney as a member of the executive branch. Justice for victims, the community, and the defendant, should not depend on which judge is assigned to decide a case.

The current rule appropriately limits the extraordinary remedy of dismissal to cases where prejudice is shown. The proposed amendment invites arbitrary action and unfettered discretion by trial courts and should be rejected.

Sincerely,

Kristie Barham
Deputy Prosecuting Attorney
Pierce County Prosecutor's Office