

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Indigent defense standards - proposed amendments.  
**Date:** Tuesday, July 30, 2024 9:45:06 AM  
**Attachments:** [Outlook-x1trypll.png](#)

---

---

**From:** Brooke Burns <BBurns@co.asotin.wa.us>  
**Sent:** Tuesday, July 30, 2024 9:42 AM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Indigent defense standards - proposed amendments.

**External Email Warning!** This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

Good morning,

I am writing to comment on the proposed amendments to the Washington Court Rules establishing state standards for indigent defense.

For a little background, I am in the Southeastern corner of the State of Washington. It is extremely difficult to attract attorneys to this area. I was born and raised here, so I returned after law school to practice in 2006. Since I have returned, there have only been a small handful of new attorneys who have come to the area to practice. Additionally, a lot of the older generation of attorneys have retired or taken the bench. That has left my community with not only very few attorneys but also with mostly inexperienced attorneys.

I took the bench in Jan. 2021 and had one contract public defender. Asotin County has always had two or three contract public defenders. That attorney then quit, and I had no contract with public defenders for two years. I had to rely on the good graces of private counsel to agree to take cases for me and had to reach as far as Walla Walla in some cases because of the required qualifications for those cases, e.g. Class A felonies. In 2024, I now finally have three contract public defenders, although only one is Class A qualified.

While I understand the need to ensure that public defenders are paid better and are devoting the time that they should be to their cases, cutting the caseload down as far as proposed is not reasonable. What that will mean is that we won't have attorneys to assign to cases and as such, cases will have to be dismissed. This means that victims will not be made whole or felt to have secured justice. It will decrease community safety because defendants will have the knowledge that if there is no attorney, their crimes will go unpunished.

Most of my attorneys on contract take approximately 50 felony cases per year, as well as some misdemeanor cases. Others take only felonies but have contracts in at least two jurisdictions. Some of my attorneys also assist with GAL work as needed. With the new UGA laws one attorney in particular also helps with CV work. To implement these standards as low as proposed will basically take away the very few attorneys that I have.

Quite frankly, if there is any amendment to a rule/policy, it should be that OPD limits the dependency attorney's ability to take multiple contracts in multiple jurisdictions. I have noticed a decrease in the quality of representation since this has transformed my area. I have OPD attorneys for parents in Asotin County who live in Walla Walla and never come to Asotin County for a hearing. I have Asotin County attorneys with cases in Dayton, who never come to a hearing. There's been a large uptick in parent's complaints about their attorney's communication with them. Of course, the attorneys deny the issue, but in the era of Zoom this has become a real problem.

I digress, but the point is that the solution to the attorney shortage epidemic and quality representation concerns in the criminal realm is not to amend the case caps so low. Since the changes in juvenile laws, crime is up for juveniles. Add the recent issues with the detention centers and the changes in truancy laws, and the courts have their hands tied concerning what we can do to incentivize law-abiding behavior and school attendance. Crime is up across the State (apparently except for Walla Walla), and with the implementation of these standards and the consequences of those standards, it is only going to get worse. For what it's worth, it would do far more good to have a state office providing public defender and dependency representation than to have free lawyers for (bad) tenants program. With the changing case law, e.g. Bragg, Heng, etc., more is required of the courts and the attorneys and now these amendments will lessen the attorney pool even further.

I implore you to please reconsider the amendment to these standards.

Respectfully,

***Judge Brooke J. Burns***

***Superior Court Judge for Asotin, Garfield and Columbia Counties***

