



March 28, 2025

Justices of the Washington Supreme Court
P.O. Box 40929
Olympia, Washington 98504-0929
VIA E-MAIL: supreme@courts.wa.gov

RE: Proposed Changes to Civil Rule 12

Dear Justices:

Washington Defender Association (WDA) supports the proposed changes to CR 12, which would allow incarcerated civil litigants 60 days from the service of a summons to serve an answer. The proposed change would afford incarcerated litigants the same extended time period that applies to respondents served out of state or by publication.

WDA is home to the Incarcerated Parents Project (IPP), which works to end family separation caused by parental incarceration and to mitigate harms therefrom. As part of its mission, WDA IPP supports meaningful connections between children and their parents during incarceration, which strengthens the likelihood of successful reunification after release. WDA IPP assists incarcerated parents and their loved ones with legal information and referrals. Through that work, we know that incarcerated parents often struggle to maintain contact with their children despite their best efforts. That is due in part to barriers incarcerated parents face when trying to participate in family law cases involving their children.

It is nearly impossible for an incarcerated litigant to comply with the current response time of 20 days to serve an answer to a summons, in part due to lack of control over their own mail. People who are incarcerated depend completely on jail or prison staff for the receipt and mailing of legal documents. When an incarcerated litigant mails legal documents, they can be delayed in leaving the institution, as reflected by General Rule 3.1, which sets out special rules regarding

legal mail incarcerated people send. That same delay applies to incoming mail, including necessary legal forms and documents sent to incarcerated litigants.

Another barrier to serving an answer to a summons from jail or prison within 20 days is the scarcity of legal resources behind bars. Less than half of all Department of Corrections (DOC) facilities and very few jails have law libraries on site. Even institutions with law libraries rarely have forms for civil actions other than those related to challenging convictions or other criminal judgements. As a result, incarcerated litigants must often have the appropriate family law legal materials physically mailed to them at the institution before they can fill them out and send in a response. Even if an incarcerated litigant can find the court form that they need in a prison or jail, they must follow a regimented process to obtain a copy, to make copies once the form is filled out, and to send the mailings back out. Some incarcerated people also do not have access to the mailing addresses of the courts or clerk's offices.

The barriers to filing an answer to a summons within 20 days deprive family court judges of important information. Parents in prison or jail may need to respond to family court orders that seek to restrict parent-child visitation. Other orders under consideration involve placement of the child of an incarcerated parent with a person who is not a parent of the child, but who will be responsible for supporting the parent-child relationship through visits, video calls, and phone calls. Family court judges who issue such orders would greatly benefit from hearing from incarcerated parents before making temporary and final decisions. Entry of family court orders without all relevant information about a child's life and meaningful relationships, including information from their incarcerated parent, undermines the court's stated purpose of entering orders in children's best interests.

The consequences of a delayed response to a summons are severe. Family court judges may enter a default order when an incarcerated parent fails to answer a summons within 20 days despite making every effort to comply. When a judge signs a default order, the litigant must then seek additional court relief, usually pro se, to set aside the disfavored default judgment. Further, family law cases decided when a parent is incarcerated can impact the parent's connection with their child long after incarceration ends because of the heightened legal standard a parent must meet to have a judge change court-ordered residential time.

Please help keep parents and children connected by adopting the proposed changes to CR 12. Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink that reads "D'Adre Cunningham". The signature is written in a cursive, flowing style.

D'Adre Cunningham
Incarcerated Parents Project Resource Attorney

A handwritten signature in black ink that reads "Magda Baker". The signature is written in a cursive, flowing style.

Magda Baker
Director of Legal Services

From: [Magda Baker](#)
To: [OFFICE RECEPTIONIST, CLERK](#)
Subject: Court Rule Comment CR 12
Date: Friday, March 28, 2025 12:30:54 PM
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Hello,

Please see attached comment in support of changes to CR 12.

Thank you for your assistance.

Magda Baker
Director of Legal Services
She/Her
magda@defensenet.org
Washington Defender Association
810 3rd Ave, Suite 258
Seattle, WA 98104
Tel: 206.623.4321, ext. 105 | Cell: 206.226.9512



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