

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



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JUSTICE
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April 29, 2025

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 the proposed amendment to CrR 3.2, and in consultation with the victim services community, I strongly urge you to reject the proposal because it would limit the amount of relevant information a court could consider in administering justice, protecting victims, and preserving community safety.

The proposed amendment purports to clarify an intentionally broad criterion, but instead, would serve to drastically reduce the mount of relevant information a court should consider when determining whether a defendant should be released.

The criterion of “interfere in the administration of justice” is clearly intended to give courts the ability to consider a wide range of facts that may be relevant to setting bail. Aside from vague and subjective assertions (e.g. “we have seen the state (sic) argue...”), the proponents have not provided concrete examples or a Washington-specific analysis that demonstrates problems with the existing language of the rule. Instead, the proponents cite to a single court decision and make references to general problems within the criminal justice system. While this creates the implication that the proposed rule change would somehow resolve those problems by limiting the factors that courts can consider in imposing bail, the argument lacks merit and is an oversimplification of numerous multifaceted issues.

In addition to lacking sufficient support for these proposed changes, the amendment is too narrow and ignores the risk that a defendant can tamper with witnesses or interfere with the administration of justice in ways other than by threats or intimidation. Because CrR 3.2 applies

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.

equally to circumstances in which the court is readdressing release based on a defendant having violated conditions of release previously imposed by the court, a court would have to ignore those violations, even if they resulted in new criminal charges being filed. For example, under the proposed amendment, a court setting bail would not be able to consider a given defendant's new, non-violent charges or their new or prior violations of conditions of release. A court would also not be permitted to consider attempts to bribe a witnesses or violations of any court orders (including no-contact orders), absent a direct attempt to intimidate or threaten.

The import of this cannot be overstated. Courts commonly impose conditions of release that are necessary for the due administration of justice but are not necessarily tied to the defendant attempting to threaten or intimidate anyone. The ability to prohibit a defendant from having contact with codefendants, victims, minors, and specific locations all help ensure fair trials, preserve evidence, keep the community safe, and prevent further victimization. Allowing for meaningful action to be taken by a court when a defendant violates a no-contact order in a domestic violence or sexual assault case can give victims much needed assurance that they will be able to testify about what happened to them without the risk of retaliation. But under this proposed amendment, a court would not be permitted to consider violations of such court-ordered conditions. Requiring a court to effectively ignore violations of court orders and blatant attempts to unlawfully dissuade a witness or victim from appearing and testifying truthfully in response to a subpoena does not bring greater clarity to these situations. Instead, it undermines the enforceability of conditions vital to victim and community safety. Courts must have sufficient discretion to address all behavior that interferes with the administration of justice, not just those that involve a threat or attempt to intimidate.

Finally, the proposed amendment precludes courts from considering relevant factors that can negatively impact the court's ability to effectively adjudicate a matter. For example, while a defendant's commission of a single new non-violent offense may not be a reason to readdress release or conditions of release, the analysis may be different with a defendant who repeatedly commits non-violent offenses in other jurisdictions. Such behavior can cause significant issues with a court's ability to adjudicate the case in a timely manner due to repeated instances of the defendant being out of contact with their attorney and unavailable to appear in court due to being in-custody in another jurisdiction. While it may be rare that a defendant's behavior rises to the level that raises these issues, it does happen. In that context, the proposed amendment strips courts of the discretion that they need to ensure that justice is properly administered even though there has been no showing of a significant or systematic abuse of that discretion.

In sum, the amendment unnecessarily limits information courts can and should consider. As a result, this amendment also poses too great a risk to community safety to justify its implementation. I respectfully urge you to reject the proposed amendments to CrR/CrRLJ 3.2.

Sincerely,



LEESA MANION
King County Prosecuting Attorney

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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



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