

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Farino, Amber](#)
Subject: FW: Objections to Proposed Rule Changes to CrR/CrRLJ 3.2
Date: Wednesday, April 23, 2025 3:35:32 PM

From: Osman, Melissa <mosman@kingcounty.gov>
Sent: Wednesday, April 23, 2025 3:19 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Objections to Proposed Rule Changes to CrR/CrRLJ 3.2

You don't often get email from mosman@kingcounty.gov. [Learn why this is important](#)

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.

Hello,

I am writing in opposition to the proposed changes to rule CrR and CrRLJ 3.2.

The proposed amendment is too narrow and ignores the risk that an accused can tamper with witnesses in ways other than by threats or intimidation. For example, under the proposed amendment, a court setting bail would not be able to consider a given defendant's attempts to bribe witnesses. In this context, the proposed amendment's over-focus on whether the accused will "threaten or intimidate" a victim or witness ignores the numerous other ways in which an accused can attempt to unlawfully dissuade a witness or victim from appearing and testifying truthfully in response to a subpoena. 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.

The proposed amendment "clarifies" the meaning of the "interfering in the administration of justice" factor in a way that renders it mostly superfluous. Under both the existing rule and the amended version proposed, a court setting bail can consider the likelihood that the accused will commit a violent offense as a factor in and of itself. As a result, limiting the "interfering in the administration of justice" factor to meaning "seeking to intimidate or threaten a witness, victim, or court employee, or tampering with evidence" renders it mostly superfluous; intimidating or threatening a witness, victim, or court employee is committing a violent offense. In that context, the practical impact of the proposed amendment is not to *clarify* the meaning of "interfering in the administration of justice," but to effectively delete it and limit the court to only considering the likelihood that the accused will commit a violent offense.

The proposed amendment ignores the fact that the rule applies equally to circumstances in which the court is readdressing release based on the accused having violated conditions of release

previously imposed by the court. Courts commonly impose conditions of release that are necessary for the due administration of justice, but are not necessarily tied to the accused attempting to threaten or intimidate anyone. Examples include prohibiting a defendant from having contact with codefendants, victims (especially in domestic violence and sexual assault cases), minors (especially in sexual assault and CSAM cases), and specific locations. Another example is a condition of release prohibiting new law violations. In this context, it is important to remember that violations of these conditions of release also interfere with the administration of justice even if they do not involve behavior that is threatening or intimidating in intent or effect. The proposed amendment would wholly deprive courts of the ability to enforce such conditions of release.

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 an accused'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 an accused who repeatedly commits non-violent offenses in other jurisdictions. The latter circumstance can cause significant issues with a court's ability to adjudicate the case in a timely manner due to repeated instances of the accused 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 an accused's behavior rises to the level that raises these issues, it can 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.

Thank you,

MJ Osman
Senior Deputy Prosecuting Attorney
King County Prosecuting Attorney's Office
mosman@kingcounty.gov
206.263.0340