CrR 3.4
PRESENCE OF THE DEFENDANT

(a) Presence Defined. Unless a court order or this rule specifically requires the physical presence of the defendant, the defendant may appear remotely or through counsel. Appearance through counsel requires that counsel either (i) present a waiver the defendant has signed indicating the defendant wishes to appear through counsel or (ii) affirm, in writing or in open court, that this is the defendant's preference.

(b) When Necessary. The defendant shall be present physically or remotely (in the court's discretion) at the arraignment (if one is held), at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(c) Effect of Voluntary Absence. In prosecutions for offenses not punishable by death, the defendant's voluntary absence after the trial has commenced in his presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by counsel for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(d) Defendant Not Present. In order to require the defendant's physical presence at any hearing other than those listed in subpart (b), the court must find good cause. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(e) Remote Proceedings.

(1) *Authorization.* Preliminary appearances held pursuant to CrR 3.2.1, arraignments held pursuant to this rule and CrR 4.1, bail hearings held pursuant to CrR 3.2, and trial settings held pursuant to CrR 3.3, may be conducted by remote technology in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule, or policy. All hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(2) *Agreement.* Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrR 4.2 may be conducted by remote technology only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) *Standards for Proceedings Held Remotely.* The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. The video and audio should be of sufficient quality to ensure participants are easily seen and understood. Remote technology must provide for confidential communications between attorney and client, including a means during the hearing for the attorney and the client to read and review all documents executed therein, and security sufficient to protect the safety of all participants and observers. For purposes of proceedings by remote technology, the electronic or facsimile signatures of the defendant, counsel, interested parties, and the court shall be treated as if they were original signatures. This includes all orders on judgment and sentence, no contact orders, statements of defendant on pleas of guilty, and other documents or pleadings as the court shall determine are appropriate or necessary. The proceeding must be conducted to assure that the interpreter can hear and speak with the defendant and hear all participants.

(f) Proceedings by Remote Technology under Chapter 10.77 RCW.

(1) *Authorization.* Proceedings held pursuant to chapter 10.77 RCW may be conducted by remote technology in which all participants can simultaneously see, hear, and speak with each other except as otherwise directed by the trial court judge. When these proceedings are conducted via remote technology, it is presumed that all participants will be physically present in the courtroom except for the forensic evaluator unless as otherwise provided by these rules, or as excused or excluded by the court for good cause shown. Good cause may include circumstances where at the time of the hearing, the court does not have the technological capability or equipment to conduct the conference by remote technology as provided in this rule. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule, or policy. All remote technology hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Five days prior to the hearing date, any party may request the forensic evaluator be physically present in the courtroom, which may in the trial court judge's discretion be granted.

(2) *Standards for Proceedings by Remote Technology under Chapter 10.77 RCW.* The judge, counsel, all parties, and the public must be able to see and hear each other during the proceedings, and speak as permitted by the judge. Remote technology must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the proceeding must be conducted to assure that the interpreter can hear and speak with the defendant and hear all participants.

<div align="center">Comment</div>

Supersedes RCW 10.01.080; RCW 10.46.120, .130; RCW 10.64.020, .030.

[Adopted effective July 1, 1973; Amended effective September 1, 1995; December 28, 1999; April 3, 2001; September 1, 2017; July 31, 2018; February 1, 2021; July 9, 2024.]