

Help Make Courts Treat People Accused of Misdemeanor Probation Violations Fairly: Submit a Comment in Favor of a Court Rule Change.

The Washington Defender Association (WDA) has proposed changes to Criminal Rule for Courts of Limited Jurisdiction (CrRLJ) 7.6, which governs misdemeanor probation. The full proposal is [here](#). If adopted, the proposal would make several improvements:

- **Courts would have to release people arrested for alleged probation violations from jail or set bail using the guidelines in CrRLJ 3.2, the rule that governs pretrial release.** Currently, judges have no legal obligation to consider release or bail before a probation hearing, meaning a judge can force a person to wait in jail until their hearing, which may not happen for several weeks.
- **Courts would have to hold probation hearings within two weeks of arrest for people who are waiting for their hearings in jail.**
- **People accused of probation violations would have the right to be physically present at their probation hearings.** Currently, some people must appear at their probation hearings remotely from jail.
- **Judges would have discretion to let people appear through counsel or remotely.** Currently, many people must appear in person for scheduling hearings.
- **The constitutional rights of people accused of probation violations would be listed in the rule.**
- **Judges would have discretion to let a court in another jurisdiction supervise probation for an individual** if both courts and the person convicted of the misdemeanor agree.

Please help by commenting in favor of the rule proposal. Comments can be as short as a few sentences. **Comments are due by April 30, 2022. Submit Comments under 1500 words to supreme@courts.wa.gov.** Mail longer comments to P.O. Box 40929, Olympia, WA 98504-0929.

POSSIBLE TALKING POINTS ARE BELOW. Please refer to your own direct knowledge or experience when using these talking points.

- Some courts refuse to release people who have been arrested on alleged misdemeanor probation violations or to even set bail, making people wait weeks in jail for their probation hearings. People held in jail may lose jobs, public benefits and housing, and incarceration can jeopardize their custody of their children.
- Many misdemeanor probation violations are relatively minor, such as driving without a license. Making people wait weeks in jail for their hearings is often disproportionate to the offense.
- Making people appear at probation hearings remotely from jail dehumanizes them and makes it hard for them to effectively address the court.
- Requiring people accused of misdemeanor probation violations to physically attend scheduling hearings is burdensome and can lead to lost wages and costs for childcare and transportation.
- Courts do not always protect the constitutional rights of people accused of probation violations. Including those rights in the rule would help judges and lawyers be aware of them.
- People are sometimes convicted of misdemeanors that occurred while they were traveling. Allowing a court in the jurisdiction where they live to supervise probation can save them time and costs associated with long trips for routine check-ins with probation.

If you have questions, please contact Magda Baker at magda@defensenet.org.