

Court Rule Update

April 2023

General Rule 42

Effective as of 1/1/2023

GR 42 increases the independence of public defense by prohibiting judges from selecting public defense administrators and public defenders and from overseeing public defense contracts.

Stay tuned for Defender Conference session Empowering Public Defense Saturday at 11:15.

CrRLJ 7.6 Probation

Effective as of 1/1/2023

- People accused of probation violations and held in jail have the right to be physically present at some hearings
- Court must hold a hearing the next day after arrest on a probation hearing or release the person within 24 hours
- Court must release or set bail pursuant to CrRLJ 3.2
- If person cannot post bail, court must hold hearing within two weeks
- Right to cross examine witnesses at a contested hearing after giving three days' notice unless the court finds good cause for not allowing confrontation

<https://defensenet.org/resources/probation-from-imposition-to-fighting-revocation-01-27-23/>

CrRLJ 7.6 Probation

Change effective when published in May 2023

(c) Revocation or Modification of Probation. The court shall not revoke or modify probation except (1) after a hearing in which the defendant shall be present, or (2) upon stipulation of the parties. The defendant has the right to be physically present at all ~~contested~~ evidentiary hearings and any hearing the defense sets to reconsider bail or conditions of release ~~at which the prosecution seeks to detain the defendant~~. The court has discretion to allow the defendant to appear through counsel or remotely.

IRLJs

Effective as of 1/1/2023

Changes bring IRLJs in line with changes to license suspension statutes.

<https://defensenet.org/resources/understanding-2023-updates-to-the-license-suspension-laws-03-31-23/>

CrR 3.3(f) and CrRLJ 3.3(f) Effective as of 1/1/2023

Defense counsel's signature on an agreement to continue a case now constitutes a representation that their client has been consulted and agrees to the continuance. A court's notice to defense counsel of new hearing dates constitutes notice to their client.

Proposed changes to JuCR 7.16

Comments due 4/30/2023

The current rule allows a juvenile court to issue a warrant when individual circumstances of a child's violation of a court order or failure to appear pose a serious threat to public safety. The proposed changes would allow a juvenile court to issue a warrant when:

- The child violates a court order and the court finds the warrant is necessary for the preservation of public or individual safety
- A child misses a hearing and then misses a second hearing at least 14 days later despite efforts of the juvenile department and
 - -The child has been charged with or convicted of a crime against a person, or
 - -law enforcement has given the child notice of the new court date
- The child misses a hearing and their circumstances or behavior pose a threat to the child or another person's safety

Comments due to
supreme@courts.wa.gov
by April 30, 2023.

Legislative Update



Big Issues Overall

- State Budget
- Firearm safety
- LGBTQ+ and reproductive rights
- Climate change

Big PD Issues

- *State v. Blake*
- Substance use disorder and mental health resources
- Police accountability
- PD Budget items
- Sentencing/Second Look

1394 – Juveniles- Sex Offense

Developmentally appropriate response

Based on academic research

Emphasizes treatment

❖ *Reduces registerable offenses*

❖ *Reduces registration period*

❖ *FTR is a gross misdemeanor for children*



1324 – Juvenile Points Bill

Amends RCW 9.94A.525:

Most Juvenile adjudications do not count

Exceptions:

- **Murder 1 or 2**
- **Class A felony sex offense**

****awaiting Governor signature**

5046 – Post Conviction Counsel

- **Post-conviction counsel for first, timely PRP or 7.8 relief from conviction or sentence based on appellate court decision**
- The legislature finds that the criminal legal system disproportionately incarcerates people of color, and that most people in prison are poor and the poorest are women and people of color.
- **awaiting Governor signature

Clean Up



Remove the Death Penalty 10.95



LFO Reform - 1169

Eliminates:

- VPA -all juveniles and indigent adults
- DNA database fee
- Juveniles
 - All LFOs except restitution on juveniles
 - Paying for evals or treatment for alternatives



NGRI – Post Commitment Counsel

- **State OPD to Administer**
- **Consistent statewide approach**
- **Counsel appointed until final unconditional release**



Increases in crimes/punishment

- **Hazing** – increased punishment – now a GM or C felony
- **UPFA** – adds felony DUI/Physical Control as basis for UPFA 1, expands predicates for UPFA 2
- **Stalking** – expands definition
- **DV Firearm Surrender** – New 5th A procedure
- **Custodial Sexual Misconduct** - increased degree of crime/punishment
- awaiting Governor signature



Trueblood – competency delays

- some improvement

Vehicular pursuit – WDA/WACDL opposed

NEW: Neg Driving – Vulnerable Victim User

- 1st degree - GM if causes death
- 2nd degree – infraction

➤ **awaiting Governor signature



Victims and Witnesses

- Expands SOL for a sex offense- up from 2 years to 4 years
 - If DNA or photograph leads to ID
- New: evidentiary limits on social media evidence to show victim's past history as it relates to credibility or consent
- **awaiting Governor signature

- Court house dogs
- DOC/Reentry
 - Reentry planning
 - Commissary
 - Expanding victim notification



