

WASHINGTON STATE BAR ASSOCIATION

Court Rules and Procedures Committee

Meeting Minutes

June 30, 2026

Members Present: Chair Andrew Yi, Charles Adams, Jonathan Bussey, Stephanie Dikeakos, Cade Jones, Kellen Kooistra, Margo Martin, Craig Moore, Martin Mooney Jr., Christine Olson, Jill Reuter, Nathanel Sugg, Karissa Taylor, Judge Brian Tollefson, Mark Trivett

Members Excused: William Elsinger, Eileen Farley, Jessica Fleming, Rachel Forde, Samantha Kanneer, Kevin McCrae, Devon McCurdy, Matthew O'Laughlin, Robin Olson, Rachel Reynolds, Justin Steiner, David Trujillo

Also Attending: Judge Wade Samuelson (Judicial Liaison), Judge Paul Crisalli (Judicial Liaison), David Ward (AOC Liaison), Nicole Gustine (WSBA Staff Liaison), Emily Crane (WSBA Staff Liaison)

The meeting was called to order at 12:05 p.m. once a quorum was established.

1. Approval of Minutes

- A motion was made and seconded to approve the April 28, 2026 meeting minutes. The motion passed by majority consent with one abstention.

2. Chair Announcements

- Chair Yi gave an update on his presentation at the past BOG meeting regarding the request that the WSBA BOG delegate limited authority to the Court Rules and Procedures Committee to comment during the GR9 initial screening process. Chair Yi and Counsel to the Committee, Nicole Gustine are actively drafting a Charter to be presented at the BOG Governance Committee at their next meeting on July 8.

3. Subcommittee Reports

- Criminal Rules for Superior Courts: Subcommittee Chair Christine Olson gave a report on the subcommittee's continued rule review. CrR 3.4, 7.2, and 4.2 were sent out for stakeholder feedback with comments received from the Washington Association of Prosecuting Attorneys. Subcommittee Chair Olson anticipates submitting proposed rule changes for the next full Committee meeting.
- Criminal Rules for Courts of Limited Jurisdiction: Subcommittee Chair Eileen Farley was absent at this meeting and delegated subcommittee member, Mark Trivett to give a report on behalf of the subcommittee. Rule review has continued with no proposed changes to CrRLJ sections 7 and 8.
- Supreme Court Comment Subcommittee: Subcommittee Chair Judge Brian Toleffson gave a report saying that the meeting has completed its current work and has not met this month.

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- Subcommittee X: Subcommittee Chair Nathan Sugg joined the meeting at a later period and did not give a report.
4. Proposed Rules from Subcommittee X
 - Jill Reuter gave a summary of the stakeholder feedback received for the proposed rule changes to RAP 16.10 and RAP 18.17. Chair Yi gave background information regarding his proposed rule change to 18.8. Additional comments on the proposed rule changes were emailed to the full Committee from two Committee members who were not present at the meeting. The Committee discussed these comments as well as other feedback from members.
 - A motion was made and seconded to approve the proposed changes to RAP 16.10, RAP 18.17, and RAP 18.8 to be submitted to the WSBA BOG. The motion passed by unanimous consent.
 5. WSBA Equity and Justice Training Videos
 - WSBA Staff Liaison, Emily Crane reminded the Committee of the two video links included on the agenda regarding equity considerations as it relates to the review work that is done for rule proposals proposed by the Committee. Additionally, WSBA staff liaisons are working to incorporate an equity training in the first Committee meeting of the new fiscal year.
 6. Other Business for the Good of the Order
 - A reminder was given that there are two scheduled meetings left in the fiscal year.

The meeting adjourned at 12:29 p.m.

GR 9 COVER SHEET

Suggested Amendments Criminal Rules for Courts of Limited Jurisdiction Rule 4.1 Arraignment

**Submitted by the Criminal Rules for Courts of Limited Jurisdiction Subcommittee
(WSBA Court Rules and Procedures Committee)**

A. Name of Proponent:

Criminal Rules for Courts of Limited Jurisdiction Subcommittee (WSBA Court Rules and Procedures Committee)

B. Spokesperson:

Andrew Yi, Chair of the WSBA Court Rules and Procedures Committee

C. Purpose: To delete unneeded and confusing language from CrRLJ 4.1. CrRLJ 4.1 (a)(2) now provides that defendants not detained in jail be arraigned “not later than 14 days after *the appearance that next follows* the filing of complaint or citation...” emphasis added. There is no regularly scheduled appearance that follows the filing of a complaint or citation. Usually the next appearance after filing of a complaint or citation is the arraignment. Therefore, the Subcommittee recommends the italicized phrase be deleted.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Suggested Rule Amendments to CrRLJ 4.1

**SUGGESTED AMENDMENTS TO THE CRIMINAL RULES FOR COURTS OF
LIMITED JURISDICTION**

CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION

RULE 4.1. Arraignment

(a) Time

(1) Defendant Detained in Jail (Unchanged)

(2) Defendant Not Detained in Jail. The defendant shall be arraigned not later than 14 days after ~~that appearance that next follows~~ the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release. Any delay in bringing the defendant before the court shall not affect the allowable time for arraignment, regardless of the reason for the delay.

(b) – (g) (Unchanged)

GR 9 Cover Sheet

(A) Name of Proponent: WSBA Rules Committee

(B) Spokesperson: Kevin J. McCrae, WSBA #43087, k.mccrae@islandcountywa.gov

(C) Purpose: Courts often hold preliminary hearings separate from arraignments. CrR 3.2.1 governs these hearings, and requires the presence of the defendant so the Court may orally inform them of certain rights. This change would update CrR 3.4 so the rules are consistent.

Additionally, in 2018, the Washington State Supreme Court unanimously held that the state's death penalty was unconstitutional. In 2023, SB 5087 formally removed the death penalty from the Revised Code of Washington.

Therefore, we propose the following amendment to CrR 3.4

(D) Hearing: A hearing is not recommended.

(E) Expedited consideration is not requested.

CrR 3.4

(a) Unchanged

(b) When Necessary. The defendant shall be present physically or remotely (in the court's discretion) at the preliminary hearing (if one is held), 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, t~~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) - (f) Unchanged

GR 9 Cover Sheet

(A) Name of Proponent: WSBA Rules Committee

(B) Spokesperson: Kevin J. McCrae, WSBA #43087, k.mccrae@islandcountywa.gov

(C) Purpose: The appellate advisories in CrR 7.2 currently advise that a defendant may appeal a sentence outside the standard range. This statement is potentially misleading, in that it implies other sentences cannot be appealed. Washington Courts have consistently held that standard range sentences can be appealed, as long as the defendant is appealing the procedure, rather than the Court's exercise of discretion in imposing a sentence. E.g. *State v. Ammons*, 105 Wn.2d 175, 183, 713 P.2d 719, 724 (1986) What exactly is procedural, rather than an exercise of discretion, is often subject to debate and interpretation at the appellate court level. Rather than try to distinguish what sentence or parts of a sentence are appealable in a rule of general applicability it is better to simply advise defendants they may appeal their sentence, and allow the parties to determine whether there is a colorable issue.

In addition the current CrR 7.2 rule advises the right to appeal is limited in case of a guilty plea, but contains no explanation of what those limitations might be. How these limitations apply to an individual case is beyond the scope of what a judge can explain using a generic advisement given to all defendants. Instead the right to appeal and its scope should be an issue reviewed with defendants by defense counsel prior to a plea. The fact that defense counsel discussed these rights with defendants should be documented in the plea form.

Currently, and for the last several years, many defendants have been alleging they were not adequately advised of their right to appeal, and seeking untimely appeals based on that alleged lack. While each case is decided on their own merits, there does appear to be room for improvement in the advisements.

Many Counties have added forms and documents to the standard State compiled forms that cover the right to appeal and collateral attack. For the sake of uniformity across the State these rights should be included in the standard state forms.

Therefore we purpose the following amendments to CrR 7.2 and CrR 4.2

(D) Hearing: A hearing is not recommended.

(E) Expedited consideration is not requested.

CrR 7.2

(a) Unchanged

(b) Procedure at Time of Sentencing. The court shall, immediately after sentencing, advise the defendant: (1) of the right to appeal the conviction and sentence; ~~(2) of the right to appeal a sentence outside the standard sentence range~~; ~~(3)~~ (2) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived; ~~(4)~~ (3) that the superior court clerk will, if requested by the defendant appearing without counsel, supply a notice of appeal form and file it upon completion by the defendant; ~~(5)~~ (4) of the right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal; and ~~(6)~~ (5) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. If this advisement follows a guilty plea, the court shall advise the defendant that the right to appeal is limited. These proceedings shall be made a part of the record.

(c) Unchanged

(d) Unchanged

CrR 4.2

(a) – (g) unchanged

Changes to Statement of Defendant on Plea of Guilty

1-5 unchanged

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) My right to appeal is limited. I have reviewed these limitations on my right to appeal with my counsel.

(b) – (j) unchanged

(k) The judge does not have to follow anyone's recommendation as to sentence. If I was over the age of 18 when I committed this crime, the judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If I was under the age of 18 when I committed this crime, the judge has the discretion to impose an exceptional sentence downward. I understand the following regarding exceptional sentences:

- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than 1 crime and I have an offender score of more than 9.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
- (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.
- (v) If I committed this crime under the age of 18, the judge must consider mitigating circumstances related to my youth, including, but not limited to, immaturity, impetuosity, and failure to appreciate risks and consequences, the nature of my surrounding environment and family circumstances, the extent of my participation in the crime, the way familial and peer pressures may have affected me, how youth impacted any legal defense, and any factors suggesting that I might be successfully rehabilitated. If I am convicted of a sentencing enhancement, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding my youth into account.

~~If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.~~

(l)-(qq) Unchanged

(7)-(11) Unchanged

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs, the “Offender Registration” Attachment, and the “Felony Firearm Registration” Attachment, if applicable. I understand them all. I have been given a copy of this “Statement of Defendant on Plea of Guilty.” I have been informed: (1) of the right to appeal the conviction and sentence; (2) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived; (3) that the superior court clerk will, if requested by the defendant appearing without counsel, supply a notice of appeal form and file it upon completion by the defendant; (4) of the right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal; and (5) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. (6) My right to appeal is limited. I have no further questions to ask the judge.

Remainder unchanged