

Comment on proposed rule SCLCrR 3.3(f) regarding agreed continuances.

The Skagit County Public Defender has concerns about the implementation of this rule.

- The distinction between violent (12 months) and nonviolent (6 months) does not track with the time cases often actually take to resolve. An Assault 2 (violent) could consist of a 2 page police report, 1 body worn camera, 1 lay witness, 1 officer witness to interview, and the client could be facing 3-9 months jail. A DUI (nonviolent) could involve forensic experts for accident reconstruction (even without an injury), forensic experts as to the blood draw, lots of civil witnesses, 2 agencies if MVPD began the case and turned it over to WSP which is common, and a standard range of 63-84 months. A forgery or ID theft (nonviolent) could involve hundreds of pages of financial records to review. If a time limit on agreed continues is going to be put in place, it should be one time consistent for all cases.
- As an example of why even 12 months on a violent offense may be too little: Our office has an attempted rape case where the client was arraigned November 2024, and we still don't have complete discovery. This is not always the case, but is not uncommon either. While November to June is within the 12 months, knowing 7 of the 12 have been without complete discovery is a valid reason to need more than 12 months to resolve the case.
- A client is more likely to be out of custody on a nonviolent charge. If a client is waiting on a comp eval out of custody, it will take more than 6 months to obtain the eval. One of the reasons we have been getting them a little more quickly (maybe 8 months instead of 13), was the ability to use the waiting room on the third floor of the courthouse as a space for WSH to have all day once a month or so. We will be losing that space this summer, when it is remodeled into a hearing room. So wait time for out of custody comp evals will likely increase.
- The calendars will be longer if we are calling matters on the record, and will most likely be more physically crowded. While clients do not need to appear and can still appear through counsel, if the case is being called and defense counsel cannot assure clients of their next court date, I suspect many clients will choose to appear. Out of custody clients will be sitting all day waiting to be called between in custody clients. We may need to consider adding a separate out of custody calendar or redistributing calendar time. We already have calendars 4 days a week, and when we are not in the jail courtroom, District or Muni Court are using the space.
- Without this rule, the court has the discretions in an appropriate case to indicate further continuances in that case shall be on the record. Individualized inquiry is a better

approach than blanket rules. It is also more consistent with the preference for individualized inquiry and court's using their discretion rather than prejudging cases.

- This rule will disproportionately impact new attorneys who inherit caseloads. These attorneys are the ones who need office time to review discovery and meet with clients. Yet they will be in court the most to handle matters on the record.
- Our office does agree with the general premise that there should be longer, more useful continuances and setting things over 1 week at a time should be discouraged (absent a client having the ability to be released, or things of that nature). We will work to implement that request, which seems to be part of the basis for this rule.

Comment on proposed rule SCLJuCR 1.5(b) regarding agreed continuances.

- Concerns are similar as the comments made regarding the corresponding adult rule.

Comment on proposed rule SCLJuCR 4.1 regarding appearance at arraignment.

- Defense does not support mandating juvenile respondents to appear in person for arraignment.
- Juvenile respondents should have the same rights as adult defendants, who may appear via ZOOM for arraignment.
- Juvenile respondents have less ability to transport themselves to court than adults. They often do not drive, do not own vehicles, and many parts of Skagit County are not easily traversable by bus route. Mandating juveniles to appear in person often requires a youth missing school AND a parent missing work.
- Appearing in person requires more time than appearing via ZOOM, so youth that are in school will miss more school in order to appear in person.