



**Department of  
PUBLIC DEFENSE**

**Anita Khandelwal, Director**

710 Second Avenue, Suite 200  
Seattle, WA 98104  
anita.khandelwal@kingcounty.gov

April 30, 2024

Justice Mary Yu  
P.O. Box 40929  
Olympia, WA 98504-0929

Dear Justice Yu,

With this proposed rule change to CrR 3.2/CrRLJ 3.2, we seek to mitigate one of our criminal legal system's greatest inequities: the criminalization of poverty through the bail system.

By law an individual presumed to be innocent but held on bail may obtain their release in three ways: 1) posting the full bail amount (cash bail); 2) depositing a refundable 10% of an ordered bond with the court (deposit bail), or 3) paying a non-refundable 10% premium to obtain a surety bond through a private bail bond agency (surety bail).

However, in practice, courts very rarely offer accused people the option of deposit bail, effectively forcing indigent people to choose between paying a private company a non-refundable premium for their release or remaining in jail. The wealth extracted from low-income communities across the country due to this practice is significant: the ACLU and Color of Change estimate that the private bail bonds industry generates as much as \$2.4 billion nationwide every year.<sup>1</sup> And if the bail bond companies determine that a person lacks sufficient collateral, that person may have no option other than to remain in jail, risking loss of their job, home, and children.

This proposed amendment to CrR 3.2/CrRLJ 3.2, Release of Accused, would require courts to offer accused persons the option of making a 10% cash deposit of the bail amount directly to the court, which would be returned at the conclusion of their case. While this amendment will not solve all the issues with the bail system, it is a significant step in reducing the inequity of the current system, in which people who cannot afford full bail amounts must pay private bail companies for their release, if these companies choose to help them at all.

---

<sup>1</sup> See Color of Change and American Civil Liberties Union's Campaign for Smart Justice, "Selling Off Our Freedom: How Insurance Companies Have Taken Over Our Bail System" (Oakland, CA: 2017), available at <https://www.aclu.org/publications/selling-our-freedom-how-insurance-corporations-have-taken-over-our-bail-system>.

Washington should join the many other states -- including Oregon, Kentucky, Massachusetts, Wisconsin, and Nebraska -- that have adopted similar bail reform rules.<sup>2</sup> By amending CrR and CrRLJ 3.2, Washington can mitigate the harm the criminal legal system inflicts on people with low incomes who are charged with crimes and presumed innocent.

Sincerely,

Anita Khandelwal, Director  
King County Department of Public Defense

Shannon Perez-Darby, Founder  
Accountable Communities Consortium

Jazmyn Clark, Smart Justice Policy Program Director  
ACLU-WA

Nicole Zayas Manzano, Deputy Director of Policy  
The Bail Project

Nicholas Oakley, Director of Policy & Strategy  
Center for Children & Youth Justice

Prachi Dave, Managing Director of Policy and Advocacy  
Civil Survival

Providence Kamana, CEO  
Cocreative Culture

Dominique Davis, CEO  
Community Passageways

Kim Ford, Chief of Staff  
Community Passageways

nikkita oliver, Esq., M. Ed., Executive Director  
Creative Justice

Stephen Woolworth, Ph.D, CEO  
Evergreen Treatment Services

---

<sup>2</sup> Kentucky, Wisconsin, and Oregon, along with Illinois, rely on systems like the one proposed here, in which individuals pay deposits to courts instead of private businesses, and have expressly outlawed the private bail bond industry. U.S. Commission on Civil Rights, *The Civil Rights Implications of Cash Bail* (Jan. 2022), <https://www.usccr.gov/files/2022-01/USCCR-Bail-Reform-Report-01-20-22.pdf>, at 70. In Massachusetts, the private bail bond industry is still allowed to operate, but the state-run program has effectively ended it, since most individuals prefer to pay a refundable deposit to the court rather than a nonrefundable one to a bail bond company. Allie Preston, The Center for American Progress, *Fact Sheet: Profit Over People: Inside the Commercial Bail Bond Industry Fueling America's Cash Bail Systems* (July 6, 2022), <https://www.americanprogress.org/article/fact-sheet-profit-over-people/>.

Hailey Gray, Policy & Program Coordinator  
Justice for Girls Coalition

Kendrick Glover, Executive Director  
GloverEmpowerMentoring-GEM

Erin Shea McCann, Director of Policy & Systemic Advocacy  
Legal Counsel for Youth and Children (LCYC)

Charles Smith, Public Policy and Advocacy Director  
The Mockingbird Society

Skylar Brett, LEAD Legal Services Director  
Purpose. Dignity. Action. (PDA)

Jason Schwarz, Director  
Snohomish County Office of Public Defense

Kathleen Kyle, Executive Director  
Snohomish County Public Defender Association

Kia C. Franklin, Executive Director  
Stand for Children Washington

Magda Baker, Director of Legal Services  
Washington Defender Association

Lara Zarowsky, Executive & Policy Director  
Washington Innocence Project

Lei Young, Staff Attorney  
Washington State Office of Public Defense

Representative Kirsten Harris-Talley (former)

Emily Hiskes

Paul Holland

Matthew Kama'aina

Martina Kartman

Anne Lee

Arthur Longsworth

Amy Muth

Sara Rankin

Kim Serry