

April 30, 2024  
Chief Justice Steven González  
P.O. Box 40929  
Olympia, WA 98504-0929

Dear Chief Justice González,

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.

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,

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

<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:*

Washington can mitigate the harm the criminal legal system inflicts on people with low incomes who are charged with crimes and presumed innocent.

Sincerely,

[Add list of signatories]

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*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/>.