

WSR 21-14-107
RULES OF COURT
STATE SUPREME COURT
[July 1, 2021]

IN THE MATTER OF THE ) ORDER
SUGGESTED AMENDMENT TO ) NO. 25700-A-1364
CrRLJ 2.1—COMPLAINT—CITATION )
AND NOTICE )

Chief Justice González's Chambers, having recommended suggested amendment to CrRLJ 2.1—Complaint—Citation and Notice, and a majority of the Court having approved the suggested amendment for publication; Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2022.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2022. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 1st day of July, 2021.

For the Court

Gonzalez, C.J.

GR 9 COVER SHEET

Suggested Amendment to

WASHINGTON STATE COURT RULES:

CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION

Amend RULE 2.1

COMPLAINT—CITATION AND NOTICE

Submitted by the Chief Justice's Chambers

- A. Name of Proponent: Chambers of Chief Justice Steven González
B. Spokesperson: Laura Anglin, Justice González's Law Clerk
C. Purpose: CrRLJ 2.1 (c) (7) references a statute that was repealed in 2001, RCW 9.94A.440. The statute has been recodified with amendments at RCW 9.94A.411. The proposed revision reflects that change.

D. Hearing: A hearing is not recommended.

E. Expedited Consideration: Expedited consideration is requested given the technical nature of the amendment and because the rule points to a repealed statute.

Proposed Amendment:

RULE 2.1

COMPLAINT—CITATION AND NOTICE

(a) - (b) [no change]

**(c) Citizen Complaints.** Any person wishing to institute a criminal action alleging a misdemeanor or gross misdemeanor shall appear before a judge empowered to commit persons charged with offenses against the State, other than a judge pro tem. The judge may require the appearance to be made on the record, and under oath. The judge may consider any allegations on the basis of an affidavit sworn to before the judge. The court may also grant an opportunity at said hearing for evidence to be given by the county prosecuting attorney or deputy, the potential defendant or attorney of record, law enforcement or other potential witnesses. The court may also require the presence of other potential witnesses.

In addition to probable cause, the court may consider:

(1) Whether an unsuccessful prosecution will subject the State to costs or damage claims under RCW 9A.16.110, or other civil proceedings;

(2) Whether the complainant has adequate recourse under laws governing small claims suits, anti-harassment petitions or other civil actions;

(3) Whether a criminal investigation is pending;

(4) Whether other criminal charges could be disrupted by allowing the citizen complaint to be filed;

(5) The availability of witnesses at trial;

(6) The criminal record of the complainant, potential defendant and potential witnesses, and whether any have been convicted of crimes of dishonesty as defined by ER 609; and

(7) Prosecution standards under ~~RCW 9.94A.440~~ RCW 9.94A.411.

[REMAINDER: NO CHANGE]

**(d)** [no change]