

WSR 22-13-084
RULES OF COURT
STATE SUPREME COURT
[June 9, 2022]

IN THE MATTER OF THE PROPOSED) ORDER
AMENDMENT TO CrRLJ 2.1—) NO. 25700-A-1430
COMPLAINT—CITATION AND)
NOTICE)

The Washington Association of Prosecuting Attorneys, having recommended the adoption of the proposed amendment to CrRLJ 2.1—Complaint—Citation and Notice, and the Court having considered the proposed amendment, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendment as shown below is adopted.

(b) That the proposed amendment will be published in the Washington Reports and will become effective September 1, 2022.

DATED at Olympia, Washington this 9th day of June, 2022.

Johnson, J.
Madsen, J.
Owens, J.
Stephens, J.
Gonzalez, C.J.
Gordon McCloud, J.
Yu, J.
Whitener, J.

CrRLJ 2.1

COMPLAINT—CITATION AND NOTICE

(a) - (b) [Unchanged.]

(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.~~

If the judge is satisfied that probable cause exists, and factors (1) through (7) justify filing charges, and that the complaining witness is aware of the gravity of initiating a criminal complaint, of the necessity of a court appearance or appearances for himself or herself and witnesses, of the possible liability for false arrest and of the consequences of perjury, the judge may authorize the citizen to sign and file a complaint in the form prescribed in CrRLJ 2.1(a). The affidavit may be in substantially the following form:

THE STATE OF WASHINGTON)
)ss.No. _____
-COUNTY OF _____)

AFFIDAVIT OF COMPLAINING WITNESS

DEFENDANT:

Name _____ Name _____
Address _____ Address _____
Phone _____ Bus. _____ Phone _____ Bus. _____

WITNESSES:

Name _____ Name _____
Address _____ Address _____
Phone _____ Bus. _____ Phone _____ Bus. _____

Name _____ Name _____
Address _____ Address _____
Phone _____ Bus. _____ Phone _____ Bus. _____

I, the undersigned complainant, understand that I have the choice of complaining to a prosecuting authority rather than signing this affidavit. I elect to use this method to start criminal proceedings. I understand that the following are some but not all of the consequences of my signing a criminal complaint: (1) the defendant may be arrested and placed in custody; (2) the arrest if proved false may result in a lawsuit against me; (3) if I have sworn falsely I may be prosecuted for perjury; (4) this charge will be prosecuted even though I might later change my mind; (5) witnesses and complainant will be required to appear in court on the trial date regardless of inconvenience, school, job, etc.

Following is a true statement of the events that led to filing this charge. I (have) (have not) consulted with a prosecuting authority concerning this incident.

On the _____ day of _____, 19____, at _____.
_____(location)

Signed _____

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19__.

Judge

~~(d)~~ (c) Filing.

(1) - (2) [Unchanged.]