

WSR 23-09-018
RULES OF COURT
STATE SUPREME COURT
[April 6, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1498
CrRLJ 7.6—PROBATION [REVISED]
PROPOSAL]

The Washington Defender Association, having recommended the adoption of the suggested amendments to CrRLJ 7.6—Probation [Revised Proposal], and the Court having considered the suggested amendments, and having determined that the suggested amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the suggested amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 6th day of April, 2023.

Johnson, J.
Madsen, J.
Owens, J.
Gonzalez, C.J.
Yu, J.
Montoya-Lewis, J.

CrRLJ 7.6
PROBATION

(a) Probation. After conviction of an offense the defendant may be placed on probation as provided by law.

(b) Jurisdiction. Pursuant to RCW 39.34.180, the court may transfer probation.

(c) Revocation or Modification of Probation. The court shall not revoke or modify probation except (1) after a hearing in which the defendant shall be present, (2) upon stipulation of the parties. The defendant has the right to be physically present at all contested evidentiary hearings and any hearing at which the prosecution seeks to detain the defendant the defense sets to reconsider bail or conditions of release. The court has discretion to allow the defendant to appear through counsel or remotely.

(d) Release Pending Probation Hearing. If the defendant has been arrested for an alleged probation violation, the court shall release the defendant within 24 hours or hold a hearing on the next judicial day to determine release conditions pursuant to rule 3.2.

(e) Timing of Probation Hearing. If a defendant is held in custody on the alleged probation violation, the court must hold a probation hearing in which the defendant has the right to be physically present within two weeks of the defendant's arrest unless the defendant requests a continuance. If the hearing is not set for a date within two weeks of arrest, the defendant shall be released pending the hearing.

(f) Rights of the Defendant Unless Waived. The defendant is entitled to be represented by a lawyer, and a lawyer shall be appointed for a defendant financially unable to obtain one. Before a probation

hearing, the probationer shall be advised of the nature of the alleged violation and provided discovery of evidence supporting the allegation, including names and contact information of witnesses. If the defendant seeks to cross-examine witnesses, the defendant shall give notice at least three days before the hearing. A defendant who gives such notice shall have the right to confront adverse witnesses unless the court specifically finds good cause for not allowing confrontation. At the hearing, the defendant shall have the right to present evidence and cross-examine any witnesses.

(g) Record of Grounds for Decision. If the court revokes probation, it shall state the grounds for its decision succinctly in the record.