

WSR 22-24-020
RULES OF COURT
STATE SUPREME COURT
[November 30, 2022]

IN THE MATTER OF THE ) ORDER
SUGGESTED AMENDMENTS TO ) NO. 25700-A-1482
THE INFRACTION RULES FOR )
COURTS OF LIMITED )
JURISDICTION (IRLJ) )

The District and Municipal Court Judges' Association, having suggested amendments to the Infraction Rules for Courts of Limited Jurisdiction (IRLJ), 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 the proposed amendments will be published in the Washington Reports and will become effective January 1, 2023.

DATED at Olympia, Washington this 30th day of November, 2022.

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

GENERAL RULE 9

RULE AMENDMENT COVER SHEET

PROPOSED AMENDMENT TO INFRACTION RULES

FOR COURTS OF LIMITED JURISDICTION (IRLJ) 2.1, 2.4, 2.6, 3.5, and (new) 3.6

1. Proponent Organization: District and Municipal Court Judges' Association

2. Spokesperson: Judge Wade Samuelson, Lewis County District Court, Wade.Samuelson@lewiscountywa.gov

3. Purpose of Proposed Rule Amendment: The proposed amendments are to implement the minimum changes required to comply with the Laws of 2021, chapter 240 (ESSB 5226) in addition to expanding some provisions to all infraction types.

30/33 Days for Time to Respond

We propose changing the time to respond to all notice of infraction types to 30 days, if the notice is personally served. This change would satisfy the increased time allowed to respond for notice of traffic infractions in ESSB 5226. It would also (a) eliminate the statutory delineation for different response times for different infraction types, (b) provide clear notice to respondents as to the number of days they have to respond as communicated on the statewide notice of infraction form which can be used for all infraction types, and (c) streamline the processing of notice of infractions filed in the courts. Consistent with the existing, related provisions in the IRLJs, we have also incorporated the "mailbox rule," allowing three extra days to respond for notice of infractions served by mail.

Payment Plan Option

We have proposed language to account for a "payment plan" option when responding to a notice of infraction as provided for in ESSB 5226. Moreover, we have eliminated the statutory delineation for different options to respond for different infraction types by (a) providing the same options for all infraction types for selection on the statewide notice of infraction form and (b) acknowledging that courts may provide payment plans for all infraction types. We have also proposed IRLJ amendments to provide direction to the courts about the information and the manner in which to provide required statutory information to respondents.

4. Is Expedited Consideration Requested? Yes, these amendments are proposed to implement the Laws of 2021, chapter 240 (ESSB 5226), effective on January 1, 2023. We would request that the amendments take effect on January 1, 2023 in order for the court rules to be consistent with statutory law and to coincide with the effective date of the updated statewide notice of infraction forms.

5. Is a Public Hearing Recommended? No.

IRLJ 2.1 NOTICE OF INFRACTION

(a) [Unchanged.]

(b) **Contents.** Subject to IRLJ 3.1(d), the notice of infraction shall contain the following information on the copy given to the defendant, except the information required by subsection (2) is not required on a notice of infraction alleging the commission of a parking, standing, or stopping infraction:

(1)-(4) [Unchanged.]

(5) A statement that the defendant must respond to the notice of infraction within ~~15~~ 30 days of the date the notice is personally served or, if the notice is served by mail, within ~~18~~ 33 days of the date the notice is mailed;

(6)-(9) [Unchanged.]

IRLJ 2.4 RESPONSE TO NOTICE

(a) **Generally.** A person who has been served with a notice of infraction must respond to the notice within ~~15~~ 30 days of the date the notice is personally served or, if the notice is served by mail, within ~~18~~ 33 days of the date the notice is mailed.

(b) **Alternatives.** A person may respond to a notice of infraction by:

(1)-(2) [Unchanged.]

(3) Requesting a hearing to explain mitigating circumstances surround the commission of the infraction in accordance with applicable law; ~~or~~

(4) Requesting a decision on written statements, in accordance with IRLJ 3.5

~~Submitting a written statement either contesting the infraction or explaining mitigating circumstances, if this alternative is authorized by local court rule.; or The statement shall contain the person's promise to pay the monetary penalty authorized by law if the infraction is found to be committed. For contested hearing the statement shall be executed in substantially the following form:~~

~~I hereby state as follows:~~

~~I promise that if it is determined that I committed the infraction for which I was cited, I will pay the monetary penalty authorized by law and assessed by the court.~~

~~I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.~~

~~\_\_\_\_\_  
[Date and Place] \_\_\_\_\_ [Signature]~~

~~(I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.)~~

~~For mitigation hearings, the statement shall be executed in substantially the following form:~~

~~I hereby state as follows:~~

~~I promise to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set.~~

~~I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.~~

~~\_\_\_\_\_  
[Date and Place] \_\_\_\_\_ [Signature]~~

~~(I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.)~~

~~(5) (i) Admitting responsibility for the infraction and attesting that the person does not have the current ability to pay in full.~~

~~(ii) If the person selects this option, the court shall provide information about how to submit evidence of inability to pay, how obtain a payment plan, and that failure to pay or enter into a payment plan may result in a collection action, including garnishment of wages or other assets. The court may provide the information by directing the person to the court's website or by responding to any contact information provided by the person to the court.~~

~~(c) **Method of Response.** A person may respond to a notice of infraction either personally, by mail, or if allowed by local rule ~~by mail~~ or by e-mail. If the response is mailed or e-mailed, it must be postmarked or e-mailed not later than midnight of the day the response is due.~~

**IRLJ 2.6 SCHEDULING OF HEARINGS**

- (a) [Unchanged.]
- (b) [Unchanged.]

**(c) Decisions on Written Statements.** If the court has adopted a local rule authorizing decisions on written statements submitted by mail, or e-mail, it shall, upon receipt of a statement pursuant to rule 2.4 (b) (45), consider the case in accordance with rule 3.5. The requirements of GR 30(d) are not applicable to e-mail statements submitted pursuant to rule 2.4 (b) (45). The court is not required to notify the parties of a date for the examination of the statements.

**IRLJ 3.5 LOCAL RULE OPTIONS**

**(a) Decisions on Written Statements.**

(1) Local Court Form. Each court shall promulgate a form for defendants to use in hearings decided on written statements. The form shall be available on the court's website and shall also be provided to the defendant upon request. The form shall contain:

- (i) blank space for the defendant to write their statement contesting the infraction or to explain mitigating circumstances;
- (ii) notice that the defendant may attest that they do not have the current ability to pay the infraction in full;

(iii) information on how to submit evidence of inability to pay, obtain a payment plan, and inform the person that failure to pay or enter into a payment plan may result in collection action, including garnishment of wages or other assets;

(iv) a statement that, for a contested hearing, if it is determined that the defendant committed the infraction, the defendant agrees to pay any monetary penalty authorized by law and assessed by the court;

(v) a statement that, for a mitigation hearing, the defendant promises to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set; and

(vi) a signature block for the defendant which contains certification language consistent with GR 13, and notice that the defendant may sign the form in any manner consistent with GR 30.

(12) *Contested Hearing Procedures.* The court shall examine the citing officer's report and any statement or documents submitted by the defendant. The examination may be held in chambers and shall take place within one hundred and twenty (120) days after the defendant filed the response to the notice of infraction. The court shall determine whether the plaintiff has proved by a preponderance of the evidence submitted whether the infraction was committed.

(23) *Mitigation Hearing Procedures.* A mitigation hearing based on a written statement may be held in chambers and shall take place within 120 days after the defendant filed the response to the notice of infraction.

(34) *Notice to Defendant.* The court shall notify the defendant in writing of its decision, including any penalty imposed.

(45) *No Appeal Permitted.* There shall be no appeal from a decision on written statements.

(b) [Unchanged.]

#### IRLJ 3.6 PAYMENT PLANS [New Rule]

A person may request a payment plan at any time for the payment of any monetary penalty, fee, cost, assessment, or other monetary obligation associated with an infraction.

**(a) Mandatory.** If the court determines that the person does not have the ability to pay the monetary obligation in full, and the person has not previously been granted a payment plan for the same monetary obligation, and the court has not authorized its collections agency to take civil legal enforcement action, the court shall enter into a payment plan with the individual.

**(b) Discretionary.** Where the court has authorized its collections agency to take civil legal enforcement action, the court may, at its discretion, enter into a payment plan.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.