

**YAKIMA COUNTY SUPERIOR COURT
LOCAL CRIMINAL RULES
Effective September 1, 2021**

LOCAL CRIMINAL RULES.....1
LCrR 3.1 RIGHT TO AND ASSIGNMENT OF LAWYER1
LCrR 3.2 PRETRIAL2
LCrR 3.4 PRESENCE OF THE DEFENDANT.....3
LCrR 4.2 PLEAS3
LCrR 4.5 OMNIBUS HEARING AND SUBSEQUENT HEARINGS4
LCrR 6.1 TRIAL BY JURY OR BY THE COURT.....5
LCrR 6.15 INSTRUCTIONS AND ARGUMENT5
LCrR 8.2 MOTIONS5

LOCAL CRIMINAL RULES

**LCrR 3.1
RIGHT TO AND ASSIGNMENT OF LAWYER**

(d) Assignment of Lawyer.

- (4) (A) Attorneys who anticipate being appointed to represent adult indigents in criminal cases must comply with [CrR 3.1\(d\)\(4\)](#) by filing a certification of compliance with the Clerk of the Superior Court. The certification should be filed at least 14 days prior to each calendar quarter.
- (B) The Clerk will maintain an administrative file for such certifications. The administrative files will be open for public inspection.
- (C) At the time of filing a certification, the attorney shall serve a copy of the certification on the Yakima County Department of Assigned Counsel and file proof of service with the original filed with the Clerk.
- (D) The Yakima County Department of Assigned Counsel will, at the beginning of each calendar quarter, compile a list of attorneys who have filed the certification required. A copy of the list will be distributed to each judge of the Superior Court. The list will be updated from time to time during each quarter to reflect changes in certification.
- (E) The certification list will be available for inspection at the office of the Yakima County Department of Assigned Counsel and may be otherwise published by that agency.

(f) Services Other Than Counsel.

- (1) Pursuant to the authority under [CrR 3.1\(f\)](#), all requests and payment for services other than counsel, including experts, investigators, interpreters, transcripts, and court reporting, are delegated and/or transferred to the Yakima County Department of Assigned

Counsel (hereafter “Department”). The court delegates the exercise of authority and responsibility for this function to the Department except for the limited functions otherwise noted in this rule.

(2) The Department may adopt and enforce written policies and procedures to implement and administer this function. On finding that properly requested services are reasonable and necessary to an adequate defense and the defendant is financially unable to obtain them, the Department will approve the request.

(3) If indigency is not previously determined, the Department requires the defendant to obtain an order of indigency from the court prior to decision on any request. Such order must be supported by a financial declaration of the defendant and a declaration of the defendant’s attorney that no funds for such services are available under the retainer agreement, from funds in trust, or from third party guarantors of the retainer agreement. The court may require a review of the retainer agreement. Review may be held ex parte and in camera. The hearing on indigency may also be ex parte and in camera, and pleadings subject to seal at the request of the moving party.

(4) Requests and decisions must be in pleading format and may be filed with the court by the Department along with its decision on the request. If a defendant seeks to seal and/or protect any moving pleadings and/or associated records, the defendant must submit a motion and proposed order to the Department when submitting the request. The Department will submit the motion and proposed order to the court for consideration along with the moving documents and its decision.

(5) When services are denied in whole or in part by the Department, the defendant may move for review by written motion delivered to the Court Administrator who will direct it to the judge designated by the criminal presiding judge for such purpose. Such reviews will be on the written record to date submitted to Department unless the court, after initial review, schedules a hearing. The Department may refer a request directly to court if it involves a matter in which the Department determines that circumstances make it appropriate to do so. All reviews may be held ex parte and in camera.

[Adopted on an emergency basis effective December 3, 2012; Adopted on a permanent basis effective September 2, 2013; Amended effective September 1, 2020; September 1, 2021.]

LCrR 3.2 PRETRIAL

In addition to the release factors set forth in [CrR 3.2](#), the court shall consider the results of a public safety assessment (PSA) conducted for each person incarcerated and appearing before the court on preliminary appearance. If the court decides the person is eligible for release on their personal recognizance, the court shall determine the level of pretrial monitoring, if any, in addition to conditions of release set forth in CrR 3.2 (b) - (d).

[Adopted effective September 1, 2018; Amended effective September 1, 2020.]

LCrR 3.4
PRESENCE OF THE DEFENDANT

(b) When Necessary.

(1) In addition to the hearings listed in [CrR 3.4\(b\)](#), as now or hereafter amended, there is good cause to require the defendant to be present physically or remotely (in the manner of CrR 3.4(e)), at the court's discretion, at the following hearings:

- (A) The defendant's motion to waive jury trial;
- (B) A motion for continuance of trial date and waiver of speedy trial rights;
- (C) Any hearing where the court is required to conduct a colloquy with the defendant;
- (D) Evidentiary hearings conducted pursuant to [CrR 3.5](#) or [CrR 3.6](#);
- (E) Weapon-surrender hearings;
- (F) Therapeutic Court review hearings;
- (G) Triage hearings; and
- (H) Other hearings as ordered by the court.

(2) Good Cause is found and based upon the need for cases to proceed and effective administration of justice, including efficient management of jury and court resources.

(3) Nothing prevents parties from moving the court to waive the defendant's physical or remote presence for those hearings listed in (1)(A)-(G).

[Adopted effective September 1, 2021.]

LCrR 4.2
PLEAS

(a) Types.

(1) A defendant may enter a plea of not guilty in writing. Such plea shall be signed by the defendant and his or her counsel, filed with the court and a copy served on the prosecuting attorney and the Administrator.

(2) The failure to enter any plea prior to trial shall be construed as a plea of not guilty.

(h) Scheduling.

(1) The prosecuting attorneys and defense attorneys, acting through the prosecutor's office, shall advise the Administrator each day of all matters pertaining to criminal cases to come before the court the following day.

(2) Neither party shall, except in emergent situations, set any guilty plea or sentencing hearing on any day that the presence of counsel for either party is required in another department for trial or other proceedings. Any counsel whose presence in another department is required shall notify the Presiding Department and such counsel shall be given time preference in the Presiding Department. In no event shall any attorney set a matter in the Presiding Department when his or her presence is required in another department on the first day of any jury trial.

(i) Court Commissioners qualified under Article 4, Section 23 of the [Washington State Constitution](#) may accept pleas of adult criminal defendants in accordance with [CrR 4.2](#) unless otherwise restricted by administrative order of the Superior Court.

[Adopted effective January 14, 1991; Amended effective September 1, 2000; September 1, 2020.]

LCrR 4.5 OMNIBUS HEARING AND SUBSEQUENT HEARINGS

(a) At the arraignment, the court shall schedule an omnibus hearing approximately 30 days after the arraignment.

(c) At the omnibus hearing, the court shall set a readiness hearing and the trial date, unless the parties believe the case will be otherwise resolved. The parties shall complete and present one Omnibus Order, using the form found on the court's [Current Local Rules website](#).

(i) **Readiness Hearing.** The court shall schedule a readiness hearing approximately 30 days before the trial date. The parties shall address any pretrial issues remaining, and the court shall schedule a triage hearing. The parties shall complete and present one Trial Status Order, using the form found on the court's [Current Local Rules website](#). If the case is not ready to proceed to trial, the court may schedule another readiness hearing or a hearing to resolve the case.

(j) **Triage Hearing.** The triage hearing shall be set on the Friday (or nearest preceding court day if Friday is a holiday) two weeks preceding the trial. The parties shall confirm that the case is ready for trial, or schedule a hearing to resolve the case.

(k) **Special Set Motion Hearings.** Hearings which may require extensive time or court resources shall be specially set by the Court Administrator not later than 30 calendar days before trial (unless the opposing party and the court agree to a shorter time).

(1) The moving party shall file any special set motion and any supporting documents (including briefs, affidavits, or declarations).

(2) The Court Administrator will set the motion for hearing after receiving a copy of the filed motion, supporting documents, and information useful to scheduling (such as the anticipated length of hearing, interpreter needs, custody status, or special accommodations).

(3) The moving party shall serve a copy of all documents on all other parties at least ten court days before the hearing date (unless the opposing parties agree to a shorter time). Other parties may file and serve opposing documents not later than three court days before the hearing date.

(4) Special set hearings can only be stricken by the noting counsel. This may be done either by ex parte court order, or by an email to the assigned judge or Court Administrator, and to the attorneys for all parties, as soon as possible.

(l) Mandatory Appearance Hearings. Unless otherwise required by the court, the defendant must appear at preliminary appearance, arraignment, triage, and special set motion hearings, as well as trial, unless the case is resolved.

[Adopted effective September 1, 2020; Amended effective September 1, 2021.]

LCrR 6.1
TRIAL BY JURY OR BY THE COURT

(d) Order on Hearings or Trial. Unless otherwise ordered, the prevailing party shall file and serve proposed findings of fact, conclusions of law and/or order and a Notice of Hearing within five days of the conclusion of any trial or hearing requiring findings, conclusions, or order.

[Adopted effective January 14, 1991; Amended effective September 1, 2020.]

LCrR 6.15
INSTRUCTIONS AND ARGUMENT

(a) Proposed Instructions.

(1) *Distribution.* All instructions, including Washington Pattern Instructions, shall be submitted in writing. Numbered and assembled sets, with citations, shall be distributed as follows:

(A) The original shall be filed with the Clerk; one copy shall be served on each other party; one copy shall be retained by the party proposing them; and one copy shall be delivered to the judge.

(B) In addition, one unassembled set, without citations or numbers, shall be delivered to the judge. Counsel should also be prepared to email to the judge a set of the instructions without citations or numbers.

(2) *Published Instructions.* If a proposed Washington Pattern Instruction is modified, it must so indicate with the citation.

[Adopted on an emergency basis effective August 16, 2006; Adopted on a permanent basis effective September 1, 2007. Amended effective September 1, 2020.]

LCrR 8.2
MOTIONS

Motions in criminal cases shall be set for hearing by the Court Administrator only after the moving party files the motion, an affidavit or declaration, a memorandum of authorities supporting the motion, and a note for hearing, and provides a copy of each to the Court Administrator. The

opposing party may serve and file a statement of points and authorities no fewer than three days prior to the scheduled hearing.

[Adopted effective September 1, 2020.]