

SNOHOMISH COUNTY DISTRICT COURT
LOCAL RULES
EMERGENCY RULES EFFECTIVE 7-1-2021 THROUGH 8-31-2021

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ADMINISTRATIVE RULES

SCLARLJ 3 - DEFINITIONS

(a) Name of Court. The Snohomish County District Court consists of four divisions and operates in facilities in four electoral districts. Reference to a particular physical location shall specify the electoral district that shall be known as a division of the Snohomish County District Court. The current divisions are as follows:

- (1) Cascade Division - 415 E. Burke Avenue, Arlington, WA 98223-1099
- (2) Evergreen Division - 14414 179th Avenue SE, Monroe, WA 98272-0625
- (3) Everett Division - 3000 Rockefeller Avenue, Everett, WA 98201-4060
- (4) South Division - 20520 68th Avenue W., Lynnwood, WA 98036-7406

(b) "Judge" means a current appointed or elected Snohomish County District Court Judge.

(c) "Judicial Officer" means Judges as defined in SCLARLJ 3(b), Snohomish County District Court Commissioners and Snohomish County District Court Judges Pro Tempore.

(d) "Physically Present" means physically present in the courtroom.

(e) "Remotely Present" means present through video conferencing with an audio and video connection. Participants are responsible for their own device and internet connection. Failure to connect to the hearing at the scheduled start time or disconnecting prior to the conclusion of the hearing may be considered a failure to appear.

[Effective September 1, 2003; Amended September 1, 2019; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLARLJ 5 - PRESIDING JUDGE

(a) Election and Term of Office. The Court shall be managed by the Presiding Judge or, in the absence of the Presiding Judge, the Assistant Presiding Judge. The Presiding Judge and the Assistant Presiding Judge shall be elected by a majority of the Judges prior to December 1st in the year immediately occurring before the term of office. The term of office for the Presiding Judge shall be three years. The Assistant Presiding Judge may serve a term less than three years.

(b) Appeals.

- (1) A decision of the Presiding Judge may be appealed to the Judges by any Judge.
- (2) An affirmative vote of a majority of the Judges is required to reverse a decision of the Presiding Judge.

(c) Meetings.

- (1) Regular Meetings. Regular meetings of the Judges shall be held not less than every quarter. These meetings shall be on such a day as may be designated by the Presiding Judge.
- (2) Special Meetings. Special meetings of the Judges may be called at any time by the Presiding Judge or by any four Judges acting jointly. Notice of any such meeting shall be provided to each Judge at least 48 hours in advance by personal contact, electronically with receipt verification, or in writing left at the Judge's assigned division.
- (3) Meeting Agendas. The Presiding Judge shall prepare the agenda for Judges' meetings. Any Judge may place any item of business on the agenda.
- (4) Voting. At a Judge's meeting, each Judge shall have the right to cast one vote on any issue before the Judges.
- (5) Quorum. A quorum for the conduct of business by the Judges shall be a majority of the Judges.

(d) General Responsibilities. In order to assure the expeditious and efficient handling of all cases and an equitable distribution of workload among the several divisions, the Presiding Judge may, by written order, direct that cases be filed in different divisions than otherwise provided in these rules. It is recommended, but not required, that the Presiding Judge consult with the affected division Judges, affected law enforcement agencies, and other affected parties prior to making such decisions.

[Effective September 1, 2003; Amended September 1, 2004; Amended September 1, 2019, Amended September 1, 2020; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLARLJ 5.2 - COMMISSIONERS AND JUDGES PRO TEMPORE

- (a) Court Commissioners shall serve at the pleasure of the Judges and under the direction of the Presiding Judge.
- (b) Commissioners shall be compensated at a rate of pay established in the Court's annual budget.
- (c) Judges Pro Tempore shall be compensated in an amount that does not exceed the daily rate of compensation earned by Commissioners.
- (d) From time to time, the Presiding Judge may appoint Pro Tempore Commissioners as authorized by County ordinance. Pro Tempore Commissioners shall be compensated at the same rate as Judges Pro Tempore.

[Effective September 1, 2003; Amended September 1, 2019]

SCLARLJ 6 – RECORDING OF PROCEEDINGS.

The recording or dissemination of the broadcast of any court proceedings through video conferencing is not permitted without written permission of the judicial officer conducting the hearing.

[Effective September 1, 2020]

CIVIL RULES

SCLCRLJ 1 - PRESENCE OF THE PARTIES

(a) Attorneys, parties, and witnesses may be remotely present for the following civil proceedings:

- (1) Petition for a change of name;
- (2) Ex-parte protection order hearing;
- (3) Small Claim Court mediation hearings;
- (4) Civil motions without testimony;
- (5) Any other civil hearing with prior approval of a judicial officer.

(b) Any person permitted to be remotely present by this rule may be required to be physically present at the discretion of a judicial officer.

[Effective September 1, 2020; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLCRLJ 3 - FILING OF CIVIL AND SMALL CLAIMS CASES

(a) RCW 3.66.040 shall govern the division into which civil and small claims cases are filed. For purposes of this rule, reference to the ‘district’ in the statute shall mean the division of Snohomish County District Court.

(b) Impound Hearings. Impound Hearings shall be filed in the division where impound of the vehicle occurred.

(c) Transfer of Civil and Small Claim Cases. A Judicial Officer may transfer non-jury civil or small claims cases to a different division upon the court’s own motion or motion of any party upon a finding of good cause. The Presiding Judge may enter a written order transferring a civil jury case to a different division upon a finding of good cause.

(d) The filing of a case in the improper division does not create a jurisdictional defect and does not deprive the Court of jurisdiction otherwise conferred by law.

(e) These rules do not govern the filing of any petition for civil protective orders. Such petitions may be filed in any division of the Snohomish County District Court.

[Effective September 1, 2003; Amended September 1, 2019; Amended September 1, 2020]

SCLCRLJ 26 - DOCUMENT ADMISSIBILITY

(a) Certain Documents Admissible. Subject to the requirements of ER 904, the following documents are admissible in a civil case:

- (1) The written statement of any witness, including the written report of an expert witness, and including a statement of opinion which the witness would be allowed to express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury.

[Effective September 1, 2012; Amended September 1, 2019; Amended September 1, 2020]

SCLCRLJ 38 - JURY TRIAL

(a) Jury Trial

- (1) Confirmation Required. Two Court days prior to the jury trial date, the party demanding a jury trial shall email confirmation to DCJuryConfirmations@snoco.org between 8:30 AM and 4:30 PM, and confirm that the case is going to proceed to jury trial. Confirmation must include the name of the person confirming, the party they represent, the case number and the Division where trial is calendared. Failure to confirm may result in a jury panel not being available.

- (2) This procedure may be modified by written order entered in a particular case.

[Effective: September 1, 2018.]

SPECIAL PROCEEDINGS RULES

SCLSPRLJ 1 – CHANGE OF NAME

(a) Identification required. Applicants for a change of name pursuant to RCW 4.24.130 must present valid photo identification at the time of application. Acceptable forms of identification include a Washington State Driver's License, Washington State ID Card, US Passport or US Military ID. Other forms of valid photo identification may be accepted at the discretion of a Judicial Officer.

(b) Change of Name for Minor Child

- (1) Birth Certificate. A certified copy of any minor applicant's birth certificate must be presented to the clerk for verification, copying and filing with the application for name change.
- (2) Parental Consent. A minor child must be represented by a parent or legal guardian. In the absence of consent from one of the biological or legal parents, the court may grant the petition if such action would be in the best interests of the child and the non-consenting parent has received notice of the hearing on the petition.

- (3) Notice of Hearing. A parent or guardian who has not consented to a minor's change of name and whose parental rights have not been previously terminated must be given actual notice or notice by publication as provided in CRLJ 4. Petitioner shall file proof of service of the Petition and hearing date on other parties at least ten (10) days prior to the hearing. The notice requirement may be waived by a Judicial Officer upon a finding of good cause.
- (4) Notice by Publication. A person petitioning to change the name of a minor child may move the court for an order authorizing notice to a parent by publication. The requesting parent must certify under penalty of perjury that the whereabouts of the other parent are unknown. If authorized by the court, publication of a single notice in a newspaper of general circulation in the county of the non-consenting parent's last known residence shall be sufficient so long as the notice contains a hearing date, the name of the minor, the name the petitioner desires the child to assume, and sets forth the reasons for requesting the change of name.

[Effective September 1, 2003; Amended September 1, 2019; Amended September 1, 2020; Emergency Rule Effective 7-1-2021 through 8-31-2021]

INFRACTION RULES

SCLIRLJ 2.3 – FILING

Notices of Infraction shall be filed in the division where the violation is alleged to have occurred.

[Effective September 1, 2003; Amended September 1, 2019]

SCLIRLJ 2.6 - HEARINGS BASED ON WRITTEN STATEMENTS

[Rescinded September 1, 2020]

SCLIRLJ 3.1 - PRELIMINARY PROCEDURES FOR CONTESTED HEARINGS

Subpoenas in Municipal Cases. In municipal cases where a party has requested that a witness be subpoenaed, the clerk may reschedule the hearing to the municipality's next available calendar.

[Effective September 1, 2003; Amended September 1, 2020]

SCLIRLJ 3.5 - DECISION ON WRITTEN STATEMENTS AND REMOTE HEARINGS.

(a) Decisions on written statements are authorized pursuant to IRLJ 3.5(a).

(b) Defendants, attorneys, and witnesses may be remotely present for mitigation and contested hearings on infractions. Any person permitted to be remotely present by this rule may be required to be physically present at the discretion of a judicial officer.

[Effective September 1, 2003; Amended September 1, 2020; Emergency Rule Effective 7-1-2021 through 8-31-2021]

CRIMINAL RULES

SCLCrRLJ 3.1 – CERTIFICATES OF COMPLIANCE FOR INDIGENT DEFENDANTS

(a) Certificates of Compliance with the Standards for Indigent Defendants required by CrRLJ 3.1 shall be filed quarterly with the Snohomish County District Court Clerk's Office.

(b) All Notice of Appearance forms filed by counsel for indigent defendants shall indicate in a separate paragraph whether a current CrRLJ 3.1 Certificate of Compliance with the Standards for Indigent Defendants is on file with the Snohomish County District Court Clerk's Office.

[Effective September 1, 2018; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLCrRLJ 3.2 - BAIL IN FELONY OFFENSE CASES

A person subject to custodial arrest for a felony offense shall be held until they have posted bail according to a bail schedule established by the Superior Court or appeared before a Judicial Officer. Nothing in this rule shall limit the authority of a Judicial Officer to deviate from the bail schedule.

[Readopted Effective September 1, 2008; Amended September 1, 2019; Amended September 1, 2020]

SCLCrRLJ 3.3 - SERVICES OTHER THAN A LAWYER

Pursuant to CrRLJ 3.1(f)(2), all requests and approval for investigative, expert or other services under CrRLJ 3.1(f) are hereby delegated to the Snohomish County Office of Public Defense (OPD). Upon finding that investigative, expert, or other services are necessary to an adequate defense and that defendant is financially unable to obtain them, the OPD shall authorize the services. The OPD shall set both the hourly rate and total remuneration for such expert(s) or other services based upon usual and customary rates in the community for such services at public expense. Where, after review by the Director of the OPD, services are denied in whole or in part, the defendant may move for de novo review before a Judicial Officer in the Division in which the case is filed.

[Effective September 1, 2018; Amended September 1, 2019]

SCLCrRLJ 3.4 – PRESENCE OF THE DEFENDANT, DEFENSE COUNSEL, AND PROSECUTOR

(a) Pursuant to CrRLJ 3.4(d), the court finds good cause to require the defendant to be physically or remotely present for the following necessary hearings:

- (1) Compliance hearings pursuant to RCW 10.21.055 and RCW 9.41.800. The Court finds good cause to require the defendant to be physically or remotely present at compliance hearings pursuant to RCW 10.21.055 (alcohol monitoring) and RCW 9.41.801 (weapons surrender). Compliance with these statutes is a condition of release set by the Court and verification of timely compliance with these statutes has public safety implications. Non-compliance will result in review of release conditions. A defendant failing to comply with release conditions is subject to modification of release conditions and revocation of release on personal recognizance. Defendants have a due process right to notice and a hearing before any revision of release conditions. CrRLJ 3.2(j). The Court cannot conduct a hearing pursuant to CrRLJ 3.2(j) if the defendant is not present.
- (2) Modification of Release Conditions Pursuant to CrRLJ 3.2(j). The Court finds good cause to require the defendant to be physically or remotely present for hearings pursuant to CrRLJ 3.2(j) to modify release conditions or revoke release on personal recognizance. A defendant has a due process right to be advised of the allegations of non-compliance with release conditions and to have a hearing regarding those allegations. The Court cannot conduct a hearing pursuant to CrRLJ 3.2(j) if the defendant is not present.
- (3) Trial Confirmation Hearings. The Court finds good cause to require the defendant to be physically or remotely present for Trial Confirmation in order for the Court to properly manage the jury trial caseload and Trial Confirmation calendars. At Trial Confirmation, the case is typically either continued, a resolution occurs, or confirmed for trial. Leaving continuances, dispositions and confirmation of cases to the assigned trial date would unreasonably congest the Trial Call calendar, preclude the Court from determining the need for jurors, impede the timely commencement of trials for that term, and prevent the Court from fulfilling the responsibility to protect the time for trial rights of the parties.

(A) Continuances. Defendants represented by counsel may waive their presence at Trial Confirmation, upon a form approved by the Court, if a continuance of the trial date is requested by either party. Unrepresented defendants must be physically present at Trial Confirmation if a continuance of the trial date is requested by either party. A continuance is a critical stage of the proceedings and the defendant has the right to appear. A motion to continue cannot be heard in the absence of an unrepresented defendant.

(B) Resolution. Cases may be resolved at Trial Confirmation through a guilty plea or other agreement between the parties such as a CrRLJ 6.1.2(b) Stipulation or Submittal, a Stay of Proceedings or Stipulated Order of Continuance. Each of these possible resolutions requires the defendant to be present.

(C) Trial Confirmation. Cases confirmed for the assigned trial date at Trial Confirmation require the parties to submit a Trial Confirmation Order. The order affirms that discovery has been completed, necessary pre-trial motions have been resolved, witness interviews have been completed, the defendant confirms availability for the trial term, and the matter is ready to proceed to trial. The Court cannot properly assess the readiness of the parties to proceed to trial if the defendant is not present.

(4) Sentence Review Hearings. The Court finds good cause to require the personal appearance of all defendants for Sentence Review hearings. A defendant has a due process right to be advised of the allegations of non-compliance with probation conditions, to have a hearing regarding the allegation and to require the prosecutor to prove the allegations of non-compliance. The Court cannot conduct a sentence review if the defendant is not present.

(b) The defendant's attorney shall be physically present if the defendant is required to be physically present.

(c) The prosecutor shall be physically present for all appearances.

(d) Any person permitted to be remotely present by this rule may be required to be physically present at the discretion of a judicial officer. Any person required by this rule to be physically present may be remotely present with the prior approval of a judicial officer.

[Effective September 1, 2020; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLCrRLJ 3.7 – PRE-TRIAL MOTIONS

(a) Confirmation Required. Two court days prior to the calendared hearing date, the party demanding a CrRLJ 3.5 hearing and the moving party for all motions filed pursuant to CrRLJ 3.6, SCLCrRLJ 3.7(b), CrRLJ 8.3 and any other motion to suppress evidence or motion to dismiss, shall email confirmation to dcmotionconfirm@snoco.org between 8:30 AM and 4:30 PM, and confirm that the motion is going to proceed. Confirmation must include the name of the person confirming, the party they represent, the case number, the Division where hearing is calendared and whether the defendant is in custody. Failure to confirm may cause the case to be stricken from the motion calendar.

(b) Pre-Trial Motions. Unless otherwise ordered by a Judicial Officer, motions pursuant to CrRLJ 3.5 and CrRLJ 3.6 shall be heard not later than 1 week prior to the trial date.

(c) Timing. The filing, content and calendaring of motions is governed by CrRLJ rules 3.6, 8.1 and 8.2, except that any responsive pleadings must be filed and served not later than 12:00 pm on the court day before the scheduled hearing.

[Effective January 30, 2019; Amended September 1, 2019; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLCrRLJ 4.11 – MENTAL HEALTH SCREENING

(a) Initial Mental Health Screening.

- (1) Upon receiving a representation that there may be reason to doubt the competency of an in custody criminal defendant, the court shall order an initial mental health screening by a mental health professional at Snohomish County Corrections.
- (2) The initial Mental Health Screening Report shall be provided in writing to the court, the Prosecuting Attorney and defense counsel within three (3) court days of the entry of the Initial Mental Health Screening Order.
- (3) The assessment and report required by this rule shall be conducted and prepared by qualified professionals in the mental health field at Snohomish County Corrections.

(b) Court Action. At the hearing following receipt of the initial Mental Health Screening Report, the court shall, along with the Report, consider the arguments and any factual information from the Prosecuting Attorney and the defendant's counsel and may either:

- (1) Find that there is not a reason to doubt the competency of the in custody defendant and deny the Motion for a further evaluation of the defendant's competency pursuant to RCW 10.77.060, or
- (2) Find that there is reason to doubt the competency of the in custody defendant, and provided that the defendant has not indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, stay further criminal proceedings, and order an evaluation of the mental health condition (competency) of the in custody defendant at state expense pursuant to RCW 10.77.060, by a qualified community expert, who has been preapproved by the court (subject to available funding). Such competency evaluation shall be in writing and returned to the court not later than 15 days from the entry of such order, or
- (3) Find that there is reason to doubt the competency of the in custody defendant, stay further criminal proceedings, and order that a qualified expert from Western State Hospital evaluate and report on the mental health condition (competency) of the defendant pursuant to RCW 10.77.060.
- (4) Find that there is reason to doubt the competency of the in-custody defendant, stay further criminal proceedings, and, finding that circumstances involving the health of the defendant require, order that the defendant be transported to Western State Hospital for an evaluation and preparation of a report on the mental health condition (competency) of the defendant, pursuant to RCW 10.77.060.

(c) Waiver of Initial Mental Health Screening/Rescreening.

- (1) The Initial Mental Health Screening required by this local rule may be waived by the court upon the agreement of both the Prosecuting Attorney and the defendant's attorney that such screening is unnecessary in a particular case.
- (2) An in-custody defendant may be ordered by the court to be rescreened at any time, upon finding that it is likely that the mental condition of the defendant has changed since the last screening.

(d) Defendant rights.

- (1) Any time the defendant is being assessed by court appointed experts or professional persons pursuant to the provisions of this local rule, the defendant shall be entitled to have his or her attorney present.
- (2) In an initial mental health screening conducted under this chapter, the defendant may refuse to answer any question if he or she believes his or her answers may tend to incriminate him or her or form links leading to evidence of an incriminating nature.
- (3) No provision of this local rule shall abrogate any right guaranteed or provided by the Constitution of the United States or of the State of Washington, Washington statutes or Washington State Court Rules.

[Effective September 1, 2020]

SCLCrRLJ 5.1 - COMMENCEMENT OF ACTIONS.

- (a) Under Municipal Ordinances. Complaints for the violation of a municipal ordinance should be heard in the division in which the municipality exists.
- (b) Under Other Laws. All criminal and criminal traffic actions should be filed in the division where the violation is alleged to have occurred.

[Effective September 1, 2003]

SCLCrRLJ 5.2 - TRANSFER OF CASES

- (a) A Judicial Officer may transfer criminal cases to another division upon the court's own motion or motion of any party upon a finding of good cause.
- (b) A defendant on probation in more than one division may have their probation consolidated to one division at the direction of a probation officer. Probation should consider where the defendant resides, current probation staffing levels and probation caseloads in making any consolidation decision

[Effective September 1, 2003; Amended September 1, 2019]

SCLCrRLJ 6.1.1 - TRIAL BY JURY.

- (a) Confirmation Required. Two court days prior to the jury trial date, the defendant if appearing pro se, or the defendant's attorney if represented by counsel, and the plaintiff shall email confirmation to DCJuryConfirmations@snoco.org between 8:30 AM and 4:30 PM, and confirm that the case is going to proceed to jury trial. Confirmation must include the name of the person confirming, the party they represent, the case number, the Division where trial is calendared and whether the defendant is in custody. Failure to confirm may result in a jury panel not being available.
- (b) Trial Briefs and Motions in Limine. All trial briefs and motions in limine shall be filed with the Court and opposing party no later than noon the court day prior to the first day of the trial term for which the case has been confirmed.
- (c) Trial Confirmation Order. The parties shall complete and file a Trial Confirmation Order at the Trial Confirmation Hearing. The form of the Order shall be approved by the Court.

[Effective: September 1, 2018; Amended September 1, 2019; Emergency Rule Effective 7-1-2021 through 8-31-2021]

SCLCrRLJ 7.1 - DEFERRED PROSECUTION. PETITION AND ORDER.

- (a) All petitions for Deferred Prosecution pursuant to Chapter 10.05 RCW shall include the following requirements:
 - (1) The Petition, proposed Order and all documentation required by this rule shall be filed with the Probation Department and the prosecuting authority no later than seven (7) days prior to the proposed entry date.
 - (2) The Petition and Order shall be submitted on forms approved for use by the Court.
 - (3) The Petitioner shall submit proof of completion of at least eighteen (18) hours of treatment and proof of compliance with the recommended treatment program.
 - (4) The Petitioner shall submit proof of installation of an ignition interlock device if the substance use disorder assessment includes a finding of alcohol dependency. A Petitioner who will not be operating a motor vehicle may sign a declaration of non-driving and may not operate any motor vehicle without an ignition interlock device.
- (b) A Mental Health Deferred Prosecution shall include the following requirements:
 - (1) A minimum of two (2) years of mental health treatment with a Washington State licensed mental health provider.
 - (2) Total abstinence from alcohol and all other non-prescribed mind-altering drugs;
 - (3) Proof of a substance use disorder assessment from a Washington State licensed or certified substance abuse treatment provider and compliance with the recommended course of treatment unless waived by a Judicial Officer.
- (c) A Domestic Violence Deferred Prosecution shall include the following requirements:

- (1) A risk assessment finding of Level 3 or Level 4 pursuant to Chapter 388-60B WAC.
- (2) Proof of a substance use disorder assessment from a Washington State licensed or certified substance use disorder provider and compliance with the recommended course of treatment unless waived by a Judicial Officer.
- (3) Proof of compliance with any weapons surrender orders issued pursuant to RCW 9.41.800.
- (4) Five years of probation supervision.
- (5) No new criminal law violations during the probation period.

[Effective September 1, 2005; Amended September 1, 2019; Amended September 1, 2020]