



Whatcom County

COUNTY COURTHOUSE
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(360) 778-5010

Agenda Bill Master Report

File Number: AB2023-069

File ID:	AB2023-069	Version:	1	Status:	Adopted
File Created:	01/12/2023	Entered by:	MWinter@co.whatcom.wa.us		
Department:	Prosecuting Attorney's Office	File Type:	Ordinance		
Assigned to:	Council Criminal Justice and Public Safety Committee	Final Action:	02/07/2023		
Agenda Date:	02/07/2023	Enactment #:	ORD 2023-003		

Primary Contact Email: mwinter@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code 2.09 to conform with newly adopted and amended Court rules

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See ordinance.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
01/24/2023	Council	INTRODUCED	Council Criminal Justice and Public Safety Committee
		Aye: 7 Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner	
		Nay: 0	
		Absent: 0	
02/07/2023	Council Criminal Justice and Public Safety Committee	RECOMMENDED FOR ADOPTION	
		Aye: 3 Buchanan, Byrd, and Frazey	
		Nay: 0	
		Absent: 0	
02/07/2023	Council	ADOPTED	
		Aye: 7 Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner	
		Nay: 0	
		Absent: 0	

Attachments: Agenda Bill Master Report, Proposed Ordinance

ORDINANCE NO. 2023-003

**AMENDING WHATCOM COUNTY CODE CHAPTER 2.09
TO CONFORM WITH NEWLY ADOPTED AND AMENDED COURT RULES**

WHEREAS, on February 1, 2021, the Washington State Supreme Court amended Superior Court Criminal Rule 3.1 standards for indigent defense; and

WHEREAS, on February 1, 2021, the Washington State Supreme Court amended Criminal Rule for Courts of Limited Jurisdiction 3.1 standards for indigent defense; and

WHEREAS, on February 1, 2021, the Washington State Supreme Court amended Juvenile Court Rule 9.2 standards for indigent defense; and

WHEREAS, the public defense standards of conduct established in Whatcom County Code (WCC) 2.09.070 do not incorporate the newly adopted standards of conduct outlined by the Washington State Supreme Court in Superior Court Criminal Rule 3.1, Criminal Rule for Courts of Limited Jurisdiction 3.1, and Juvenile Court Rule 9.2;

WHEREAS, on June 9, 2022, the Washington State Supreme Court adopted General Rule (GR) 42; and

WHEREAS, the purpose of GR 42 is to safeguard the independence of public defense services from judicial influence or control; and

WHEREAS, GR 42(d)(1) states that, "Judges and judicial staff in superior courts and courts of limited jurisdiction shall neither manage nor oversee public defense services..."; and

WHEREAS, the Public Defense Advisory Committee as established in Whatcom County Code (WCC) 2.09.090 is in conflict with the newly adopted GR 42 as it includes a district court judge and a superior court judge as members; and

WHEREAS, the code can be brought into conformance with the newly adopted standards of conduct outlined by the Washington State Supreme Court in Superior Court Criminal Rule 3.1, Criminal Rule for Courts of Limited Jurisdiction 3.1, Juvenile Court Rule 9.2 and GR 42 with the following amendments; and

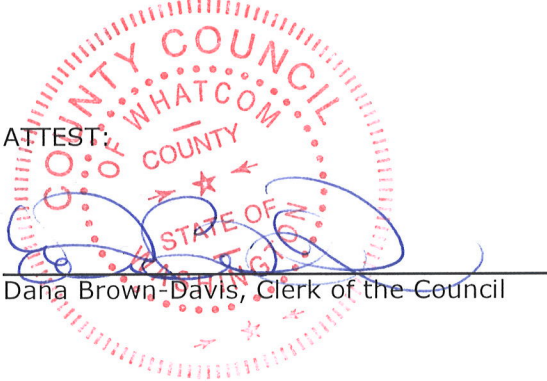
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that WCC 2.09 is hereby amended as outlined in Exhibit A to this ordinance.

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BE IT FURTHER ORDAINED that, unless specifically amended by this ordinance, all other provisions of chapter 2.09 WCC shall remain in full force and effect.

ADOPTED this 7th day of February, 2023.

ATTEST:



Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry A. Buchanan
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

/s/ Karen Frakes approved via email on 1/18/23/MR

Civil Deputy Prosecutor

Satpal Sidhu, exec. pro tem

Satpal Sidhu,
County Executive

() Approved () Denied

Date Signed: 2/21/23

1
2 EXHIBIT A
3

4 **2.09.070 Standards of Conduct.**

5 ~~As standards for public defense services, Whatcom County adopts by reference the~~
6 ~~standards applied to private attorneys defending paying clients and the Standards for Public~~
7 ~~Defense Services adopted in 1989 by the Washington Defender Association and approved by~~
8 ~~the Washington State Bar Association as the standards for public defense services in~~
9 ~~Whatcom County, as required by RCW 10.101.030. (Ord. 2020-048 Exh. A; Ord. 84-22 § 7;~~
10 ~~Ord. 82-22 § 7).~~

11 As standards for public defense services required by RCW 10.101.030, Whatcom
12 County adopts by reference the Standards for Indigent Defense Services (SID) articulated
13 by the Washington Supreme Court in Superior Court Criminal Rule 3.1, Criminal Rule for
14 Courts of Limited Jurisdiction 3.1, and Juvenile Court Rule 9.2. For those standards reserved
15 by the court in the aforementioned court rules, but required by RCW 10.101.030, Whatcom
16 County adopts by reference the relevant standards applied to private attorneys defending
17 paying clients and the Standards for Public Indigent Defense Services adopted by the
18 Washington State Bar Association as standards for public defense services until those
19 standards are addressed by the court in the aforementioned court rules.

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21 **2.09.090 Advisory committee.**

22 There is established a public defense advisory committee which shall be composed
23 of:

24 A. ~~One superior court judge, appointed by the presiding superior court judge~~ One
25 current or former director of a county public defender agency, appointed by the county
26 executive;

27
28 B. ~~One district court judge, appointed by the senior district court judge~~ One current
29 Whatcom County department head, other than the public defender, sheriff or prosecuting
30 attorney, appointed by the county executive;"
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