

ORDINANCE NO. _____

**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 ____ day of _____, 2023.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

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,
County Executive

() Approved () Denied

Date Signed: _____

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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;
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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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