

11 September 2018

Ms Joanne Stampalia  
Executive Director  
Court and Tribunal Services  
Department of Justice  
PO Box F317  
PERTH WA 6841

Dear Ms Stampalia

**AMENDMENT TO SECTION 55 OF THE *CRIMINAL PROCEDURE ACT 2004***

I refer to your letter of 3 August 2018 inviting the Law Society of Western Australia's comment on the proposal to amend s55 of the *Criminal Procedure Act 2004* (WA). Thank you for the opportunity to provide comment.

The Law Society supports the amendments as proposed, and makes the following additional recommendation.

One possible improvement could be for the prosecutor, rather than the magistrate, to determine whether to apply for an arrest warrant to be issued or a conviction in default of appearance. By electing a conviction in default, the prosecutor would be conceding that the punishment should be a fine.

If the prosecutor intends to submit that a greater punishment is appropriate, the prosecutor should ask for a warrant to bring the person before the court. However, if the magistrate decides that only a fine should be imposed, the subsequent costs order should not include the costs of the warrant. This would encourage prosecutors to seriously consider the adequacy of a fine before making an application.

If you would like to discuss the above further, please do not hesitate to contact Mary Woodford, General Manager Advocacy at [mwoodford@lawsocietywa.asn.au](mailto:mwoodford@lawsocietywa.asn.au) or on (08) 9324 8646.

Thank you again for the opportunity to comment.

Yours sincerely



Hayley Cormann  
**President**