

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE)
BY WASHINGTON STATE COURTS TO THE) ORDER RE: DEPENDENCY
COVID-19 PUBLIC HEALTH EMERGENCY) AND TERMINATION CASES
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) NO.
_____)
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WHEREAS, on March 18, 2020, the Court entered Order No. 25700-B-606, and said it would consider additional proposals regarding dependency and termination matters under paragraph 14; and

WHEREAS, requests have been submitted by the Office of Public Defense and the Office of Civil Legal Aid to adopt this Order to ensure consistency of practice and due process rights of parents and children during the present COVID-19 public health emergency; and

WHEREAS, the Court finds the suggested additions to its March 18, 2020 Order to be responsive to the rights and needs of parents, children, caregivers, social workers, and others during the present public health emergency;

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of the courts, personnel, litigants, and the public, it is hereby ORDERED:

1. Courts and all parties in shelter care hearings shall make their best efforts to make it possible for the shelter care emergency matter to be heard by telephone, video, or other means that do not require in-person attendance. These efforts shall include working together to address alternative means of providing and accepting discovery, client contact information, and pleadings. Shelter care hearings must be heard within 72 hours whether agreed or contested, unless waived by the parent(s).

2. In order to protect the right of parents to have a meaningful hearing, Courts must strictly comply with RCW 13.34.090. Attorneys for the parent(s) and the child(ren) must be given contact information for the client and a copy of the dependency petition in order to allow an opportunity to review the supervising agency records prior to the hearing.
3. Juvenile courts shall undertake an individualized determination as to whether early appointment of an attorney is indicated under the criteria and considerations set forth in *In re Dependency of E.H.*, 191 Wn.2d 872 (2018) and shall enter findings on the record regarding decisions of whether to appoint attorneys for children in such cases.
4. Appropriate safety and social distancing requirements must be maintained in any out-of-home placement of dependent children.
5. When contested matters are not heard in person, the Court must allow the parents and children the opportunity to speak confidentially with their attorneys prior to cross-examination of witnesses.
6. Courts have the authority to determine that any hearing in a dependency case is an emergency matter, depending on the facts and circumstances of that case, subject to shelter care hearings, which are emergent per Section 1 of this order.
7. No default orders for dependency fact-findings, termination fact-findings, or Title 13 guardianship fact-findings shall be entered until after April 24, 2020, because personal service and in-person court appearances jeopardize public health and safety.
8. Child and parent visitation shall continue, pursuant to RCW 13.13.160, subject to appropriate emergency-based frequency, time place, and manner considerations. Due to COVID-19 safety concerns, visitation shall be conducted by video, though in appropriate cases involving very young children face to face visitation may be maintained.

9. As the COVID-19 emergency has caused services delivery to be disrupted, a court shall not find parents to be out of compliance with their services plans, and such plans shall be extended for an amount of time proportionate to the emergency.
10. Exceptional reasons pursuant to RCW 13.34.070(1) exist to continue all dependency fact-finding hearings that are set between now and April 24, 2020, unless an agreed order of dependency is entered consistent with Section 2 of this order.
11. For hearings set between now and April 24, 2020, juvenile courts may find that the COVID-19 pandemic is a basis to find a good cause exception under RCW 13.34.145(5)(a) not to order the Department of Children, Youth, and Families to file a petition to terminate parental rights.

DATED at Olympia, Washington this ____ of March, 2020.

For the Court