

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF COWLITZ

IN RE THE MATTER OF THE RESPONSE
BY COWLITZ COUNTY SUPERIOR
COURT TO THE PUBLIC HEALTH
EMERGENCY IN COWLITZ COUNTY
AND THE STATE OF WASHINGTON

No.:
EMERGENCY ORDER No. 1
RE: COURT OPERATIONS

FINDINGS OF FACT BASED UPON THE PUBLIC RECORD

On February 29, 2020, Governor Jay Inslee declared a state of emergency due to the public health emergency posed by the coronavirus 2019 (COVID-19). [See Proclamation 20-05 of the Governor of the State of Washington, dated February 29, 2020, attached hereto as Attachment A, and incorporated herein by reference.]

1. On March 4, 2020, the Board of Cowlitz County Commissioners declared an emergency related to the significant health threat caused by the novel coronavirus (COVID-19). [See Resolution 20-011 of the Board of County Commissioners of

Cowlitz County, Washington, dated March 4, 2020, attached hereto as Attachment B, and incorporated herein by reference.]

2. On March 4, 2020, Washington Supreme Court Chief Justice Debra Stephens entered Order No. 25700-B-602, in response to the declared public health emergency in Washington State, that stated as follows:

WHEREAS, during this state of emergency, it may become necessary for courts in these counties to close, relocate or otherwise significantly modify their regular operations; and

WHEREAS, the presiding Judges in these counties need sufficient authority to effectively administer their courts in response to this state of emergency, including to adopt, modify, and suspend court rules and orders as warranted to address the emergency conditions,

NOW THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of court personnel, litigants and the public,

IT IS HEREBY ORDERED THAT:

1. The Presiding Judges of the Washington courts are authorized to adopt, modify, and suspend court rules and orders, and to take further actions concerning court operations as warranted to address the current public health emergency;
2. Each court shall immediately transmit copies of emergency local rules adopted or modified to address the public health emergency to the Administrative Office of the Courts in lieu of the requirements of General Rule 7;
3. Each court that closed pursuant to the Order or General Rule 21 shall sign an administrative order closing the court, file the original with clerk of the affected court, and notify the Administrative Office of the Courts as soon as practicable
4. Each court shall, as soon as practicable, publish in full all rules or orders adopted or modified to address this public health emergency on its local website. [See Order No. 25700-B-602 of the Supreme Court of Washington, dated March 4, 2020, as Attachment C, attached hereto and incorporated herein by reference.]

3. On March 12, 2020, the Seattle Times published a Gates Foundation study cited by Governor Inslee, *Working paper-model based estimates of COVID-19 burden in King and Snohomish counties through April 7, 2020*, Klein, Hagedorn, Kerr, Hu, Bedford and Famulare; Institute for Disease Modeling; Bill and Melinda Gates Foundation; Fred Hutchinson Cancer Research Institute, March 10, 2020. The conclusions of this study were based upon business as usual; 25, 50, and 75 per cent reduction, from January 15

to April 7. The conclusion of "business as usual" (that is to say, no general orders such as entered by the Governor and Public Health Officer, no banning of large or small groups, no precautions) estimated 25,000 infections and 400 deaths by April 7. On the other hand, mitigation efforts such as announced above could reduce the range of deaths by significant amount.

4. On March 11, 2020, the Governor entered orders to step up measure of "community mitigation." On the same day, the World Health Organization declared a global pandemic and the President of the United States spoke to the nation about extreme measures he was taking. The next day, the Governor closed the schools in three counties; King, Snohomish and Pierce.

5. On Friday, March 13, 2020, Governor Jay Inslee announced the state-wide prohibition of all social, spiritual and recreational events over 250 people; this included concerts, festivals, conferences, conventions, worship services, sporting events and other similar events. [See Proclamation 20-11 of the Governor of the State of Washington, dated March 13, 2020, as Attachment D, attached hereto and incorporated herein by reference.]

6. On Friday, March 13, 2020, Governor Jay Inslee ordered the closure of all K-12 schools statewide. The schools will close by Tuesday, March 17 and will remain closed through at least Friday, April 24. He has also restricted activity at all public and private universities, colleges, community colleges, technical schools and private career schools and apprenticeships for the same time period. [See Proclamation 20-09 of the Governor of the State of Washington, dated March 13, 2020, as Attachment E, attached hereto and incorporated herein by reference.]

7. As of March 13, 2020, the Cowlitz County Health and Human Services is "recommending the cancellations of large gatherings of more than 250 people in order to minimize the potential health impacts of COVID-19. The Public Health recommendation applies to gatherings of 250 people or more, including concerts, festivals, conferences, conventions, worship services, sporting events and other similar events or

activities....The recommendations for large gatherings align Cowlitz County with similar restrictions in place in the Puget Sound area, in Clark County, and in the state of Oregon. Organizers of smaller events should take steps to prevent the spread of COVID-19 at their gatherings.” The Cowlitz County Health and Human Services is also “recommending, but not requiring, that people at higher risk avoid large groups of people as much as possible. This includes public gatherings where they will be in close contact with others.” The Cowlitz County Health and Human Services identified “People at higher risk of serious illness from COVID-19 include people older than 60, who have serious chronic medical conditions such as diabetes, heart disease and lung disease, and who have weakened immune systems.” [See the Cowlitz County Health and Human Services News Release, dated March 13, 2020, as Attachment F, attached hereto and incorporated herein by reference.]

8. On March 13, 2020, this Court issued a press release that excused jurors who have a chronic health condition, such as heart disease, lung disease, or diabetes; have a weakened immune system; are pregnant or nursing; are currently ill; or meet some other criteria of risk identified by the CDC. [See the Cowlitz County Superior Court Press Release, dated March 13, 2020, as Attachment G, attached hereto and incorporated herein by reference. An Emergency Order will not be issued because it is included in and superseded by further modifications to jury service as set forth herein.]

9. On March 15, 2020, the CDC issued Interim Guidance for Coronavirus Disease 2019 (COVID-19), stating “large events and mass gatherings can contribute to the spread of COVID-19 in the United States via travelers who attend these events and introduce the virus to new communities.” Therefore, the CDC recommends, in accordance with its guidance for large events and mass gatherings recommends that for the next 8 weeks, organizers (whether groups or individuals) cancel or postpone in-person events that consist of 50 people or more throughout the United States. Further that events of any size should only be continued if they can be carried out with adherence to guidelines for protecting vulnerable populations, hand hygiene and social distancing. The CDC

recommends, when feasible, organizers could modify events to be virtual. (See the statement of the CDC Interim Guidance for Coronavirus Disease 2019 [COVID-19], Attachment H, attached hereto and incorporated herein by reference.)

10. On March 15, 2020, Governor Inslee issued a statewide statement to temporarily shut down restaurants, bars and entertainment and recreational facilities. Additionally, all gatherings with over 50 participants are prohibited and all gatherings under 50 participants are prohibited unless previously announced criteria for public health and social distancing are met. [See statement, as Attachment I, attached hereto and incorporated herein by reference.]

11. Currently, there are over 769 confirmed cases of COVID-19 in the state of Washington. There are currently 42 deaths statewide. The numbers are changing; current information can be found at <https://www.doh.wa.gov/Emergencies>. The pending cases are no longer known, as now private labs are starting to do testing and they are only required to report if it is a confirmed case of COVID-19.

WHEREAS, Cowlitz County currently has one confirmed case of COVID-19. It is a smaller county located on the I-5 corridor bordering the state of Oregon that has 36 confirmed cases, and Clark County, to the south, which has 3 confirmed cases of COVID-19. Many of the people that live in Cowlitz County commute for work in Clark County and the state of Oregon;

WHEREAS, like many courts, we serve a vulnerable population of people. In addition, whether people come to the court as a party, witness, juror, legal counsel, or as court personnel, the courtrooms are compact, jury rooms are small, jury pools can only be maintained in a small area, there are limited restrooms, and seating is compact.

WHEREAS, many of our court dockets, or jury pools, bring over the 50 person limit for gatherings as stated by Governor Inslee on March 15, 2020. With the vulnerable population that come to the court and the construction of our court facilities, there is no reasonable way to observe the recommendations of the Center for Disease Control.

WHEREAS, the goal of the Court is to curtail access in the least restrictive means available for protecting the health and safety of those that enter our courts.

THEREFORE, based on the above, the significant number of individuals at risk of contracting COVID-19 in Cowlitz County and the severity of risk posed to the public, court personnel and litigants; and given the recommendations from the Washington State Health Department, and the Cowlitz County Health Department.

It is hereby ORDERED, after finding good cause and pursuant to the authority of the Washington State Supreme Court Order No. 25700-B-602 and the authority as Presiding Judge of Cowlitz County Superior Court, that the following shall be in effect March 18, 2020:

1. CRIMINAL AND CIVIL JURY TRIALS.

a. All jury summons are suspended until May 4, 2020. The jury personnel for Cowlitz County Superior Court shall call off summoned jurors immediately.

b. All criminal jury trials are stricken and CONTINUED until at least the week of May 4, 2020. A new court date will be assigned at the currently scheduled Readiness docket; or if the parties agree to a new Readiness date then the parties can submit to the Court, at least two days prior to the scheduled Readiness docket, an agreed order continuing the case to a new Readiness docket and trial date after May 4, 2020.

c. All civil jury trials are stricken and CONTINUED until at least June 1, 2020, and will be reset on the Trial Scheduling docket on April 29, 2020 at 1:45 pm.

d. These jury trials and other matters are continued due to the serious danger posed by the virus which is an unavoidable circumstance, reduced ability to obtain an adequate spectrum of jurors and the effect of the above public health recommendations on the availability of counsel and Court staff to be present in the courtroom, the time period of the continuances by this Emergency Order will be excluded in computing time for a criminal trial pursuant to CrR 3.3(e)(3) and CrR 3.3(f)(2). The Court also finds that the ends of justice served by continuing these criminal cases outweighs the defendant's

right to a speedy trial. The Court further finds that any delays for time for criminal trial are the result of the unavoidable and unforeseen circumstances and are therefore excluded from computing time for trial by CrR3.3(e)(8).

2. CRIMINAL AND CIVIL BENCH TRIALS. All criminal and civil non-jury trials with a trial date before May 4, 2020 shall occur as follows:

a. The criminal non-jury trials shall go forward as currently scheduled, unless the parties submit an agreed order striking the non-jury trial and re-noting it for a trial assignment docket after May 4, 2020.

b. The civil non-jury trials shall go forward as currently scheduled, unless the parties submit an agreed order striking the non-jury trial and re-noting it for a trial assignment docket after June 1, 2020.

c. The findings regarding the computing of time of the criminal trials and other criminal matters shall be as set forth under the Criminal and Civil Jury Trials paragraph 1(d), set forth above.

3. ALL OTHER CRIMINAL DOCKETS. All other criminal cases and dockets shall be handled as follows:

a. All non-emergency criminal motions may be stricken and renoted by the requesting party, to a court date after May 1, 2020. Any motion proceeding forward can remain as currently scheduled.

b. All Omnibus hearings shall proceed as currently scheduled, however the parties are encouraged to enter agreed Omnibus Orders Ex Parte. The Defendant is requested not to appear at any Omnibus hearing set prior to May 4, 2020.

c. All first appearances and arraignments shall occur as currently, or subsequently, scheduled.

d. Drug Court cases will be handled as follows:

The day before court, Drug Court staff will contact each client on the docket. They will do a check in with them and, if they are in compliance, will excuse them from court the following day. Those not in compliance will be required to report to court

as scheduled, but will be asked to not bring any friends or family with them in order to better maintain social distancing.

e. Mental Health cases will be handled as follows:

The day before court, Mental Health Court staff will contact each client on the docket. They will do a check in with them and, if they are in compliance, will excuse them from court the following day. Those not in compliance will be required to report to court as scheduled, but will be asked to not bring any friends or family with them in order to better maintain social distancing. All graduations from Mental Health Court are cancelled until further notice.

4. ALL DOMESTIC DOCKETS. The family law cases and dockets shall be handled as follows:

a. All emergency domestic motions shall remain as currently, or subsequently set, but parties shall appear electronically via CourtCall. The assigned judge shall review the domestic docket in advance and, if he/she determines the motion is not an emergency, it will be stricken. The Court will be issuing automatic temporary orders in newly filed cases within the last two weeks, until further notice. The temporary order to be issued is set forth in Attachment J. All non-emergency domestic motions shall be stricken and must be renoted by the requesting party after June 1, 2020.

b. All mandatory settlement conferences will be cancelled and reset by the Court after June 1, 2020.

c. All final decree hearings are stricken from the domestic docket and must be renoted by the requesting party after June 1, 2020. However, agreed final decree hearings can be submitted Ex Parte, by pro se or represented parties, with the appropriate jurisdictional affidavit set forth in Cowlitz County Local Court rule 92(f), and all required pleadings.

d. All domestic trials shall go forward as currently scheduled unless the parties submit an agreed order striking the trial and re-noting it for a trial assignment docket after June 1, 2020.

5. ALL OTHER CIVIL LAW DOCKETS. The remaining civil law cases and dockets shall be handled as follows:

a. Guardianships:

i. All emergency guardianship motions shall remain as currently, or subsequently set, but parties shall appear electronically via CourtCall. The assigned judge shall review the guardianship docket in advance and, if he/she determines the motion is not an emergency, it will be stricken. All non-emergency guardianship motions shall be stricken and must be renoted by the requesting party after June 1, 2020. However, parties can submit agreed or uncontested proposed orders through the Ex Parte process set forth herein.

ii. On a case by case basis, longer continuances will be permitted to address barriers to accessibility and health and safety issues for Guardians ad Litem and Medical Providers in interviewing and evaluating Alleged Incapacitated Persons.

iii. Telephone appearances by CourtCall will be required for all participants in Guardianship hearings.

iv. In anticipation of barriers accessing Alleged Incapacitated Persons, particularly those considered vulnerable to COVID-19 and those residing in care facilities, Guardian ad Litem and other parties may note Petition for Instructions or other motion(s) to approve alternative to in-person interviews on shortened time without prior entry of an Order Shortening Time. Such requests will be considered via telephonic appearance through CourtCall by all parties.

v. For the immediate future (until further order of the Court), and while the public health crisis is ongoing, all Petitions for Appointment of Guardian ad Litem should be submitted Ex Parte, as set forth herein; however, if there is a need for a hearing, the matter should be noted on the regular docket and the parties appear electronically through CourtCall.

vi. Counsel are encouraged to submit all agree orders prior to their designated hearing date and provide notice of entry of any order/request to strike hearing to the Cowlitz County Superior Court Clerk.

vii. In an effort to minimize attendance, parties in receipt of any Order to Appear on Guardianship calendar and/or Order on Case Review regarding the Probate Review calendar are required to submit proof of compliance or otherwise request a continuance. Parties should not attend any case review hearings in person. Pro Se litigants may present their matters telephonically at the time of the review hearing as needed.

b. Probates. Effective immediately, all eligible Petition for Appointment of Personal Representative or Administrator and Bonds must be presented Ex Part via the Clerk. Walk-in/In Person presentation is no longer permitted. For those matters which require notice or otherwise are ineligible for submission Ex Parte, via the Clerk, the moving party shall note the matter for hearing and submit a request for telephonic appearance. Parties must continue to submit original Wills as required pursuant to Chapter 11.20 RCW.

c. Adoption. All parties are directed to note their adoptions for telephonic appearance, or other court authorized electronic appearance, and submit their requests through Form Interrogatories. The Court will not require parties to obtain prior court approval for this. All pending adoption hearings are stricken, effective March 23, 2020, unless they arrange telephonic appearance, without exception. Parties, including pro se litigants, may contact the Adoption Court Clerk at 360-577-3016.

d. All Other Civil Hearings. All other civil motions not addressed above, with the exception of Unlawful Detainer matters, including, but not limited to Receivership and Minor Settlements shall be noted and presented telephonically, or by other court approved electronic appearance. All in-person hearings on these calendars are suspended.

6. ALL MENTAL HEALTH HEARINGS AT PEACE HEALTH. The mental health hearings held at Peace Health, St. John, shall be handled as follows:

a. No changes until further notice, except subject to the screening protocols of St. Johns medical center.

7. DEPENDENCY DOCKETS. The Dependency dockets (which, for all purposes herein, includes termination cases) at the Youth Services Center, shall be handled as follows:

a. All non-emergency hearings shall be stricken and continued to an available court date after June 1, 2020. The assigned judge shall review the dependency docket in advance, and if he/she determines the motion is not an emergency, it will be stricken and be renoted by the requesting party to an available date after June 1, 2020.

b. All emergent hearings shall remain as currently scheduled, or as subsequently scheduled, but only heard telephonically through CourtCall, or other electronic communication approved by the Court. Emergent hearings shall include, but not limited to, shelter care hearings.

c. Any matters that can be agreed upon by the parties, and signed off by the parties, can be submitted to the Juvenile Court Judge for review and signature.

d. All fact findings shall be stricken and renoted by the Attorney General's Office, unless otherwise directed by the assigned judge, to an available court date after June 1, 2020; however, if the parties have agreed orders, those orders can be signed off by the parties and submitted to the Juvenile Court Judge for review and signature.

8. TRUANCY DOCKETS. The Truancy dockets at the Youth Services Center, shall be handled as follows:

a. All dockets and fact findings shall be cancelled until after June 19, 2020. The applicable school can work with the Juvenile Court Clerk handling truancy cases, to determine new court dates so long as an extension of jurisdiction is filed by the applicable school for the 2020-2021 school year.

b. If a youth or parent appears on a warrant already issued by the Court, then the warrant will be quashed and a new court date shall be issued during the 2020-2021 school year, so long as the applicable school files an extension of jurisdiction to the 2020-2021 school year.

9. JUVENILE CRIMINAL DOCKETS AND FACT FINDINGS. The juvenile criminal dockets and fact findings shall be handled as follows:

a. All non-emergency criminal motions shall be stricken and renoted by the requesting party, to a court date after May 1, 2020. Any emergency motion can remain as currently scheduled, but shall be by telephonic appearance through CourtCall.

b. All Pre-trial/Omnibus hearings shall be stricken and the parties shall submit Omnibus orders Ex Parte.

c. All first appearances and arraignments shall occur as currently, or subsequently, scheduled.

d. All other hearings not addressed herein shall be reset by an agreed order of the parties, or on the currently scheduled date, unless the Court finds it is an emergent matter that needs immediate consideration by the Court.

e. Video appearance of Respondents in juvenile detention will be used for court appearances, when possible.

f. The currently scheduled juvenile criminal trials will be assigned a new trial date at the currently scheduled Readiness docket; or if the parties agree to a new set of dates then the parties can submit to the Court, at least two days prior to the scheduled Readiness docket, an agreed order continuing the case to a new docket and fact finding date after May 4, 2020.

g. The day before court, SAFE/ITC Court staff will contact each client on the docket. They will do a check in with them and, if they are in compliance, will excuse them from court the following day. Those not in compliance will be required to report to court as scheduled, but will be asked to not bring any friends or family with them in order to

better maintain social distancing. Respondents are requested to only bring one parent or friend with them with the small space of the juvenile courtroom

h. These hearings and trials are continued due to the serious danger posed by the virus which is an unavoidable circumstance, the very small and compact juvenile courtroom that does not allow for recommended distancing, and the effect of the above public health recommendations on the availability of counsel and Court staff to be present in the courtroom, the time period of the continuances by this Emergency Order will be excluded in computing time for a juvenile criminal trial pursuant to CrR 3.3(e)(3), CrR3.3(f)(2), JuCR 7.8. The Court also finds that the ends of justice served by continuing these criminal cases outweighs the respondent's right to a speedy trial. The Court further finds that any delays for time for criminal trial are the result of the unavoidable and unforeseen circumstances and are therefore excluded from computing time for trial by CrR3.3(e)(8).

10. JUVENILE AT RISK YOUTH. All At-Risk-Youth (ARY) cases shall be handled as follows:

a. All non-emergency criminal motions shall be stricken and renoted by the requesting party, to a court date after June 1, 2020. Any emergency motion can remain as currently scheduled, but shall be by telephonic appearance through CourtCall.

b. All ARY fact findings set before June 1, 2020 shall be cancelled and reset to a regular ARY docket for rescheduling of the fact finding date. The court clerk that handles the ARY docket will advise the parties of the new docket date.

c. If a Respondent appears on a warrant, then the warrant will be quashed and a new court date shall be issued by the court clerks.

11. CHILD IN NEED OF SERVICES (CHINS). All CHINS cases shall be handled as follow:

a. The CHINS cases shall be handled in the same manner as the dependency cases.

12. EX PARTE DOCKETS. All Ex Parte dockets are cancelled until further notice, except those parties requesting a Domestic Violence Protection Order (DVPO); those parties requesting a DVPO shall be heard at the currently scheduled Ex Parte docket. All matters, other than DVPO requests, shall be submitted by leaving the Ex Parte request with the office of the Cowlitz County Superior Court Clerk. Those Ex Parte requests left with the Clerk by 10 a.m. shall be reviewed by no later than 3 p.m. the same day.

13. DOMESTIC VIOLENCE PROTECTION HEARINGS. All Domestic Violence Protection hearings shall occur as currently scheduled.

14. STATE'S PATERNITY, CONTEMPT, AND CHILD SUPPORT TRIAL DOCKETS.

a. All court appearances for the state paternity motion docket are cancelled until the next regularly scheduled hearing after April 24, 2020.

15. GENERAL. In general the following shall be applied:

a. All parties are directed to utilize the Ex Parte process for presentation of any eligible order to reduce the need for hearings.

b. Any person that travels outside the United States shall be prohibited from coming to the Superior Courts, including those located at the Hall of Justice, Youth Services Center, Cowlitz County Jail, St. John's hearing room, or the offices of any of the divisions of the Superior Court, for a minimum of 14 days after they return. You can contact Court Administration at 360-577-3085 for directions as to how to carry on business with the Court.

c. All persons present in any courtroom shall, to the extent practicable, observe social distancing and maintain a distance of at least 6 feet from any other person. The judicial officer presiding over the courtroom shall retain the authority to exclude any person failing to obey this directive.

d. No person exhibiting symptoms of COVID-19, including fever, persistent cough, or shortness of breath shall be present in any courtroom, lobby, offices, of the Superior Court, including the jail courtroom and youth services center. Any such person who does

appear shall be immediately excluded by the judicial officer presiding over the courtroom or court staff.

16. Any matters not addressed in this emergency order shall proceed in the manner consistent with all State and Local Court rules.

17. Telephone (by CourtCall), or other court approved electronic appearances, will be permitted in all matters, unless otherwise required to appear by the Court.

This Order may be further extended or modified.

DATED this 16th date of March, 2020.



JUDGE MICHAEL EVANS
ASSISTANT PRESIDING JUDGE OF
COWLITZ COUNTY SUPERIOR COURT