

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN THE MATTER OF THE RESPONSE
BY WASHINGTON STATE COURTS TO
THE PUBLIC HEALTH EMERGENCY IN
WASHINGTON STATE

ORDER

No. _____

WHEREAS. On February 29, 2020, Governor Jay Inslee declared a state of emergency in all counties in the state of Washington due to the public health emergency caused by the Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS. On March 12, 2020, Governor Jay Inslee ordered all Washington schools, public and private, and all Washington universities, public and private are closed through April 24, 2020; and

WHEREAS. On March 16, 2020, Governor Jay Inslee ordered closure of all Washington bars, restaurants, clubs, entertainment venues, faith-based organizations and facilities, and other similar organizations and venues through March 31, 2020; and

WHEREAS. On March 16, 2020, Governor Jay Inslee ordered that gatherings in the State of Washington are to be limited to no more than 50 people through March 31, 2020; and

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

authority 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. All jury trials are suspended until after April 24, 2020, except trials already in session where a jury has been sworn. For all trials suspended under this provision, April 24, 2020 will be the new commencement date under CrR 3.3.
2. All **out of custody** criminal matters already pending shall be continued to after April 24, 2020. Arraignment on out of custody cases filed between today's date and April 24, 2020 or the first appearance in court after that date shall be deferred until a date 45 days after the filing of charges. Good cause exists under CrR 4.1 and CrRLJ 4.1 and JuCR 7.6 to extend the arraignment dates. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial under CrR 3.3(c)(1), CrRLJ 3.3(c)(1) and JuCR 7.8(c)(1).
3. Courts may enter ex parte no contact orders pursuant to RCW 10.99.040, RCW 10.99.045, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation, or complaint is filed with the court and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Ex parte orders may be served upon the defendant by mail. This provision does not relieve the prosecution of proving a knowing violation of such an ex parte order in any prosecution for violating the order.

4. All **in custody** criminal matters shall be continued to after April 24, 2020, with the following exceptions:
 - a. Scheduling and hearing of first appearances, arraignments, plea hearings, criminal motions, and sentencing hearings.
 - b. Courts retain discretion in the scheduling of these matters, except that the following matters shall take priority:
 - i. Pretrial release motions.
 - ii. Plea hearings and sentencing hearings that result in the anticipated release of the defendant within 30 days of the hearing.
 - iii. Parties are not required to file motions to shorten time in scheduling any of these matters.
5. Juvenile court jurisdiction in all pending offender proceedings and in all cases in which an information is filed with the juvenile court prior to April 24, 2020, in which the offender will reach the age of 18 within 120 days of April 24, 2020, shall be extended to the offender's next scheduled juvenile court hearing.
6. The Court concludes a continuance of these criminal hearings and trials is required in the administration of justice. Based upon the court's finding that the serious danger posed by COVID-19 is good cause to continue criminal jury trials, and constitutes an unavoidable circumstance under CrR 3.3(e)(8), CrRLJ 3.3(e)(8), and JuCR 7.8(e)(7), the time between the date of this order and the

date of the next scheduled trial date are EXCLUDED when calculating time for trial. CrR 3.3(e)(3), CrRLJ 3.3(e)(3), JuCr 7.8(e)(3).

7. The Court finds that obtaining signatures from defendants for orders continuing existing matters places significant burdens on attorneys, particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, for all matters covered in Sections 1 and 2, this Order serves to continue those matters without need for further written orders. Additionally:
 - a. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters through April 24, 2020.
 - b. Clerks are directed to provide notice of new hearing dates to defense counsel and unrepresented defendants.
 - c. Defense counsel is directed to provide notice to defendants of new court dates.
8. Bench warrants may issue for violations of conditions of release from now through April 24, 2020.
9. Motions for Pre-Trial Release:
 - a. Courts may agree to hear motions for pretrial release on an expedited basis without requiring a motion to shorten time, but only if victims or witnesses can attend on an expedited basis. Const. Art. 1 (section 35).
 - b. The Court finds that for those identified as part of a vulnerable or at-risk population by the Center for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to

supply additional briefing on COVID-19 to the court. For all other cases, the COVID-19 crisis may constitute a “material change in circumstances” under CrR/CrRLJ 3.2(k)(1) and “new information” allowing amendment of a previous bail order or providing different conditions of release under CrR or CrRL or J 3.2(k)(1), but a finding of changed circumstances in any given case is left to the sound discretion of the trial court. Under such circumstances in the juvenile division of superior court, the court may conduct a new detention hearing pursuant to Ju 7.4.

- c. Parties may present agreed orders for release of in-custody defendants, which may be signed expeditiously.
- d. If a hearing is required for a vulnerable or at-risk person as identified above, court shall schedule these hearings within five days. The court is strongly encouraged to expedite hearings on other cases with due consideration of the rights of witnesses and victims to participate.

10. Courts are encouraged to consider allowing telephonic or video appearances for all scheduled criminal hearings between now and through April 24, 2020. For all hearings that involve a critical stage of the proceedings, courts shall provide a means for the defendant to have the opportunity for private and continual discussion with his or her attorney.

11. The Court recognizes that there are procedural matters in juvenile, dependency, involuntary commitment, and child support matters that may not be encompassed in this Order. Nothing in this Order limits other interested parties

in submitting similar orders tailored to the unique circumstances of those matters and any other matters not contemplated by this Order, except that parties are strongly encouraged to contemplate the issues addressed in this order.

12. Courts may adopt measures to protect health and safety that are more restrictive than this order, as circumstances warrant.

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

For the Court

CHIEF JUSTICE DEBRA L. STEPHENS