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SUPERIOR COURT OF WASHINGTON  
FOR THE COUNTY OF THURSTON

IN THE MATTER OF THE RESPONSE BY  
THURSTON COUNTY SUPERIOR COURT  
TO THE PUBLIC HEALTH EMERGENCY  
IN WASHINGTON STATE

NO. 20-2-00001-34

**EMERGENCY ADMINISTRATIVE  
ORDER No. 3**

In response to the current public health emergency in Thurston County and Washington State, this Court issued “Emergency Administrative Order #1” on March 13, 2020, and “Emergency Administrative Order No. 2” on March 17, 2020. Since that time, the situation has evolved requiring the Court to take additional action. The Court makes the following findings:

1. On March 18, 2020, Chief Justice Debra Stephens signed Washington Supreme Court Order No. 25700-B-607 addressing necessary changes to Washington State Court procedures in response to the public health emergency. A “Corrected Order” was issued March 19, 2020. (Corrected Order No. 25700-B-607 is attached.) The Order specifically provides authority for this court to “adopt measures to protect health and safety that are more restrictive than this order, as circumstances warrant, including by extending as necessary the time frames in this order.” ¶ 15.

- 1 2. The Centers for Disease Control and Prevention (CDC) tightened its guidelines and  
2 recommended restricting gatherings to no more than 10 people.
- 3 3. As of the date of this order, there are 6 reported confirmed COVID-19 cases in Thurston  
4 County, 1,376 confirmed cases in the State of Washington and 74 deaths reported in  
5 Washington State from COVID-19.
- 6 4. Due to constraints on technical capacities of the courthouse buildings and campus, the  
7 Court is limited in the number of telephonic hearings it may conduct. Technical  
8 limitations also limit the ability of court employees to effectively conduct their duties  
9 remotely. Judicial officers have experienced significant difficulties in conducting  
10 telephonic hearings during the week of March 16, 2020, due to technical deficiencies in  
11 available telephonic capacities.
- 12 5. Available juvenile detention facilities do not permit court hearings to be conducted by  
13 video. Conducting video hearings with juvenile respondents held in detention is, at this  
14 time, impossible.
- 15 6. On March 18, 2020, the Thurston County Board of County Commissioners (BOCC)  
16 closed public access to county facilities effective March 18, 2020, recognizing the need  
17 for essential court functions.
- 18 7. On March 18, 2020, the Washington State Governor Jay Inslee issued Proclamation 20-  
19 19 regarding evictions that, among other things, prohibits certain residential evictions  
20 until April 17, 2020. Specifically, the proclamation, prohibits residential landlords from  
21 serving notice of unlawful detainer for default payment of rent related to such property  
22 under RCW 59.12.030(3); prohibits residential landlords from initiating judicial action  
23 seeking a writ of restitution involving a dwelling unit if the alleged basis for the writ is  
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1 the failure of the tenant or tenants to timely pay rent; but does not prohibit local law  
2 enforcement from acting on orders of eviction issued for other reasons, including but not  
3 limited to waste, nuisance or commission of a crime on the premises.  
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5  
6 NOW, THEREFORE, IT IS HEREBY ORDERED THAT EFFECTIVE MARCH 23, 2020,  
7 Emergency Administrative Orders No. 1 and No. 2 are modified as follows, through May 15,  
8 2020:

- 9 1. The Court will operate essential functions only as outlined below in response to this  
10 public health emergency, pursuant to the Court's authority to administer justice and to  
11 ensure the safety of court personnel, litigants, attorneys, and the public.  
12
- 13 2. Superior Court will operate reduced hours at **Main Campus, Monday-Friday 8:30**  
14 **a.m.- 12:00 p.m.**, and **Family and Juvenile Court (FJC), Monday- Friday, 1:00 p.m.-**  
15 **4:00 p.m.**
- 16 3. The Court Administrator will post a calendar schedule, consistent with this order on the  
17 Thurston County Superior Court's website (<https://www.thurstoncountywa.gov/sc>) on  
18 Friday, March 20, 2020, by 5:00 p.m.
- 19 4. Superior Court Administration Front Counters (at Main Campus and Family and Juvenile  
20 Court) are authorized to be closed effective March 20, 2020.  
21
- 22 5. The Court finds that circumstances warrant more restrictive measures and, accordingly,  
23 more expansive time-lines for the public health emergency than those measures and time-  
24 lines included in Corrected Order No. 25700-B-607. Through this Emergency  
25 Administrative Order No. 3, the Court extends deadlines three (3) weeks beyond that  
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1 included by the Corrected Order. Accordingly, each time-line delineation of April 24,  
2 2020, included in Corrected Order No. 25700-B-607 shall be extended to May 15, 2020,  
3 consistent with paragraph ¶2 of this Order (see above) and the Emergency Administrative  
4 Orders Nos. 1 & 2 previously issued by this Court. Such three (3) week extension may  
5 be revised either direction by subsequent order as conditions change.  
6

7 6. All out of custody adult criminal hearings are continued until after May 15, 2020, and to  
8 be administratively canceled by the Thurston County Clerk's Office. The Court will  
9 issue new dates to be served consistent with Supreme Court Order No. 25700-B-607.  
10

11 7. All hearings for juvenile respondents not held in detention are continued until after May  
12 15, 2020, with new dates served by the Court. The Court will continue to conduct  
13 hearings and trials for juvenile respondents held in detention. Consistent with the finding  
14 above regarding impossibility of video hearings for these hearings, the Court will ensure  
15 that all such hearings are undertaken by telephone or in-person with social distancing and  
16 other public health measures strictly observed.  
17

18 8. All out of custody adult criminal defendants and juvenile respondents not in detention  
19 shall comply with all release conditions, including 3.2 orders, protection orders, and  
20 Pretrial Services Supervision requirements, if being supervised.  
21

22 9. The following adult in-custody criminal calendars will be conducted by video appearance  
23 only, except in the unlikely event such appearance is impossible in a specific case:

- 24 • Preliminary Appearances,
- 25 • Arraignment hearings (In-custody only),
- 26 • Trial Confirmation Hearings (In-custody only),

- 1 • Change of Plea and Sentencing Hearings (In-custody only),
- 2 • Special Sentencing (In-custody only),
- 3 • In-Custody Omnibus Hearings, and
- 4 • Competency Hearings (In-custody only).

5 These calendars will be adjusted to be heard and completed prior to 12:00 p.m. (noon) at  
6 Main Campus. (Check court website for scheduling of calendars).

7  
8 10. The following FJC calendars will be conducted by telephone participation only, except  
9 in the unlikely event such appearance is impossible in a specific case:

- 10 • Initial Protection Order Hearings,
- 11 • Shelter Care Hearings,
- 12 • Dependency Motions (Emergency) Hearings, and
- 13 • Ex Parte (Emergency) Hearings.

14 These calendars will be adjusted to be heard and completed between 1:00 p.m. and 4:00  
15 pm. at FJC. (Check court website for scheduling of calendars).

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17  
18 11. All other hearings and calendars previously scheduled at FJC, not addressed in this Order,  
19 are cancelled and suspended. All cancelled hearings shall be re-noted by the moving  
20 party for a hearing date scheduled to occur after May 15, 2020. The Court may, on a  
21 case by case basis, re-set some matters.

22  
23 12. The Court will conduct all ITA hearings remotely through video or telephonic hearings  
24 to the extent possible.

25 13. Non-emergency Unlawful Detainer matters will not be set for hearing before May 15, 2020,  
26 and any Show Cause of other hearings currently set on the Unlawful Detainer Calendar

1 through motions or orders before May 15, 2020, are stricken. In the event that any party  
2 does not receive an order striking such hearing, this Order serves as notice that all non-  
3 emergency Show Cause Hearings are stricken. Emergency Unlawful Detainer matters  
4 shall be set by Show Cause Order issued Ex Parte using the Civil Ex Parte Process. The  
5 failure to timely pay rent shall not provide the basis for an emergency.  
6

7 14. Civil Ex Parte at Main Campus is available for *true* emergency matters only and shall be  
8 conducted by telephone. There will be no in-person Main Campus Ex Parte process.  
9 Parties or Attorneys must file any documents relevant to the emergency motion,  
10 including a proposed order, prior to making a telephonic request. (Please see court  
11 website for details, including available time for telephonic consideration by judicial  
12 officer).  
13

14 15. Emergency civil matters on civil cases that are typically heard at Main Campus, will be  
15 heard only by court order. The Emergency Civil Calendar will be held telephonically on  
16 Friday morning at 9:00 a.m. by special set. This calendar is for Emergency Civil matters  
17 only, including Emergency Unlawful Detainer Matters, as determined by the judicial  
18 officer setting the hearing. Attorneys and parties seeking to have matters added to the  
19 Emergency Civil Calendar must use the mail-in Ex Parte process or the Civil Ex Parte  
20 process, discussed above.  
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22 16. Ex Parte at FJC is available for *true* emergency matters only and shall be conducted by  
23 telephone. There will be no in-person FJC Ex Parte process. Parties or Attorneys must file  
24 any documents relevant to an emergency motion, including a proposed order, prior to  
25 making a telephonic request. Please see court website for details, including available time  
26 for telephonic Ex Parte FJC calendar.

1 17. Regarding Protection Orders and Restraining Orders, the time for a full hearing on newly-  
2 filed or expiring civil protection orders and family law restraining orders is extended for  
3 up to 28 days beyond May 15, 2020 (or the date this Court returns to normal  
4 operations). The matters included in this Order include protection orders and restraining  
5 orders in the following categories: domestic violence protection orders, sexual assault  
6 protection orders, anti-harassment protection orders, stalking protection orders, vulnerable  
7 adult protection orders, Joel's law protection orders, and family law restraining  
8 orders. Further, the Court may extend ex parte orders and renewal orders referenced in this  
9 section beyond the initial period until a hearing may be held, and further, the judicial officer  
10 retains discretion to extend full hearings on temporary orders beyond the timeframe  
11 provided herein based on agreement of the parties or additional specific findings of good  
12 cause. Judicial officers will continue to review *ex parte* petitions to determine whether a  
13 temporary order is warranted and, if so, shall set a full hearing on the petition as noted in  
14 this paragraph. Respondents may request an emergency written review of these extended  
15 orders and the protected party may object in writing. The Court shall determine these  
16 emergency requests without hearing. All orders entered related to this section shall be  
17 served by mail.  
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22 TO THE EXTENT NOT MODIFIED BY THIS ORDER, EMERGENCY ADMINISTRATIVE  
23 ORDER #1 (DATED MARCH 13, 2020) AND EMERGENCY ADMINISTRATIVE ORDER  
24 No. 2 (DATED MARCH 17, 2020) REMAIN IN EFFECT.  
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1 THIS ORDER, INCLUDING ITS EFFECTIVE PERIOD (MARCH 23, 2020 – MAY 15, 2020),  
2 IS SUBJECT TO CHANGE AS CONDITIONS WARRANT.

3  
4 DATED this 20<sup>th</sup> day of March, 2020.

5   
6 Presiding Judge Erik D. Price  
7



FILED  
SUPREME COURT  
STATE OF WASHINGTON  
MARCH 19, 2020  
BY SUSAN L. CARLSON  
CLERK

## THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE	)	<b>CORRECTED ORDER</b>
BY WASHINGTON STATE COURTS TO THE	)	
COVID-19 PUBLIC HEALTH EMERGENCY	)	No. 25700-B-607
	)	
	)	
	)	
_____	)	

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the novel coronavirus disease (COVID-19) outbreak across the United States; and

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee has barred gatherings of more than fifty people and ordered all schools, businesses, faith-based organizations, and other public venues to close during the ongoing public health emergency, and the CDC has recommended restricting gatherings to no more than 10 people; and

WHEREAS, many court facilities in Washington are ill-equipped to effectively comply with social distancing and other public health requirements and therefore

continued in-person court appearances jeopardize the health and safety of litigants, attorneys, judges, court staff, and members of the public; and

WHEREAS, pursuant to this Court's March 4, 2020 order, many Washington courts have already taken important steps to protect public health while ensuring continued access to justice and essential court services; however, the crisis is increasing daily and it may become necessary for courts to close, suspend in-building operations or otherwise significantly modify their operations, and

WHEREAS, the increasingly aggressive spread of COVID-19 across Washington requires a uniform, coordinated response from Washington courts to prevent further outbreak and to maintain consistent and equitable access to justice; and

WHEREAS, this Court's consultation with trial court judges, justice partners and coordinate branches of government confirms the need for further direction from this Court; and

WHEREAS, the presiding judges across Washington need direction and 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:**

1. All civil jury trials shall be suspended until after April 24, 2020. Trials already in session where a jury has been sworn and social distancing and other public

health measures are strictly observed may proceed or, at the discretion of the trial court or agreement of the parties, be continued to a later date.

2. All non-emergency civil matters shall be continued until after April 24, 2020.
3. All emergency matters that must be heard before April 24, 2020, must be heard by telephone, video, or other means that does not require in-person attendance, unless impossible. Where court matters must be heard in person, social distancing and other public health measures must be strictly observed. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.
4. All criminal jury trials are suspended until after April 24, 2020. Trials already in session where a jury has been sworn and social distancing and other public health measures are strictly observed may proceed or be continued if the defendant agrees to a continuance. For all criminal trials suspended under this provision, April 25, 2020 will be the new commencement date under CrR 3.3.
5. All **out of custody** criminal matters already pending shall be continued until 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).

6. Courts may enter ex parte no contact orders pursuant to RCW 10.99.040, RCW 10.99.045, RCW 10.14.040, 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. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.
7. All **in custody** criminal matters shall be continued until 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 and bail modification motions.
    - ii. Plea hearings and sentencing hearings that result in the anticipated release of the defendant from pretrial detention within 30 days of the hearing.
    - iii. Parties are not required to file motions to shorten time in scheduling any of these matters.

8. 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 after April 24, 2020.
9. 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).
10. 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 4 and 5, 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. Courts shall provide notice of new hearing dates to defense counsel and unrepresented defendants.

c. Defense counsel shall provide notice to defendants of new court dates.

11. Bench warrants may issue for violations of conditions of release from now through April 24, 2020. However, courts should not issue bench warrants for failure to appear in-person for court hearings and pretrial supervision meetings unless necessary for the immediate preservation of public or individual safety.

12. Motions for Pre-Trial Release:

a. Courts shall hear motions for pretrial release on an expedited basis without requiring a motion to shorten time, but only if victims or witnesses can participate 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 Centers 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 JuCR 7.4.

- c. Parties may present agreed orders for release of in-custody defendants, which should be signed expeditiously.
  - d. If a hearing is required for a vulnerable or at-risk person as identified above, the court shall schedule such hearing 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.
13. Courts must allow telephonic or video appearances for all scheduled criminal hearings between now and through April 24, 2020, unless impossible. 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. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.
14. The Court recognizes that there are procedural issue in juvenile, dependency, involuntary commitment, child support, and other 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; however, parties are strongly encouraged to contemplate the issues addressed in this order.
15. Nothing in this order limits the authority of courts to adopt measures to protect health and safety that are more restrictive than this order, as circumstances warrant, including by extending as necessary the time frames in this order.

16. The Supreme Court may extend the time frames in this order as required by continuing public health emergency, and if necessary, will do so by further order.

DATED at Olympia, Washington this 19<sup>th</sup> day of March, 2020.

For the Court

  
CHIEF JUSTICE



I write to express my disagreement with paragraphs 11 and 12 of this order.

In this time of grave state emergency, bench warrants should not issue for violations of conditions of release without a specific finding that the alleged violation poses a serious threat to public safety. There are so many varied conditions of release that would not jeopardize public safety. Issuing bench warrants without such a finding of serious threat to public safety only serves to funnel more people into detention or for individuals to have outstanding warrants on their record. Outstanding warrants are also a basis for stopping and detaining individuals. I would prohibit such bench warrants absent a specific finding.

I also disagree with the conditions placed on pre-trial release in paragraph 12 that are *conditioned* on a victim or witnesses' participation. The Chief Justice misreads this important Constitutional provision. CrR 3.2 governs pre-trial release and this order, as written, undermines the presumption of release in noncapital cases. At most, notice to a victim or witness of release may be warranted but a victim or witness's participation has never been a condition of release and is not what our state Constitution requires. I object to this requirement which has no basis in the law.

Finally, I disagree with paragraph 11(b)'s statement that COVID-19 constitutes a change in circumstances for only a small portion of our Washington population. I believe it constitutes a change in circumstances for all.

Sp. J. 3-18-20  
R. M. Col, J.  
Gonzalez, J. (by sp.)  
Montoya-Lewis, J. (by sp.)