

In the Matter of Further Extending	)	CHIEF JUSTICE ORDER
Statutory Time Periods and Time	)	No. 21-056
Requirements in Driving Under the	)	
Influence of Intoxicants (DUII)	)	ORDER FURTHER EXTENDING
Diversions	)	STATUTORY TIME PERIODS AND TIME
	)	REQUIREMENTS IN DRIVING UNDER THE
	)	INFLUENCE OF INTOXICANTS (DUII)
	)	DIVERSIONS

I HEREBY FIND AS FOLLOWS:

1. ORS 1.002 provides that:
  - a. The Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law; and, to facilitate exercise of that administrative authority and supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice; and
  - b. The Chief Justice may delegate the exercise of any powers specified in ORS 1.002 to the Presiding Judge of a court.
2. ORS 1.171(2) provides that, to facilitate exercise of administration and supervision over the circuit court of the district consistent with applicable provisions of law, the Presiding Judge may apportion and otherwise regulate the disposition of the judicial business of the circuit court of the judicial district, and make rules, issue orders, and take other appropriate action to that exercise; and ORS 1.171(4) provides that a Presiding Judge may delegate the exercise of any of the administrative powers of the Presiding Judge to another judge of the court or to the Trial Court Administrator for the judicial district.
3. On March 8, 2020, Governor Kate Brown signed Executive Order 20-03, which declared a state of emergency because of the threat that the COVID-19 coronavirus posed to public health and safety (hereafter, "COVID-19 state of emergency"), most recently extended by Executive Order 21-15 (June 25, 2021) to December 31, 2021.
4. Section 6(1)(a)(A) of Oregon Laws 2020, chapter 12, provides that, during a declared COVID-19 state of emergency and continuing for 60 days after the declaration or any extension is no longer in effect, and upon a finding of good cause, the Chief Justice may extend or suspend any time period or time requirement established by statute or rule that applies in any case, action or proceeding after its initiation in any circuit court. Section 6(5) provides that the Chief Justice may delegate the exercise of any powers just described to the Presiding Judge of a court.
5. In Executive Order 21-15, Governor Brown stated that her most recent extension of the COVID-19 state of emergency was essential for continuing flexibility for statewide recovery, including as to statutes drafted to end once the state of emergency ends, such as those providing for extension of certain court deadlines. Executive Order 21-15 states that that continued flexibility during the recovery period will help Oregon manage the transition back to "normal order" in a manner that is smooth and less disruptive.

6. On September 1, 2021, I issued Chief Justice Order (CJO) 21-034 (Order Extending Statutory Time Periods and Time Requirements in Driving Under the Influence of Intoxicants (DUII) Diversions), which included an exercise of my authority as described in paragraph 4 of these findings as to certain statutory time periods and time requirements that apply in DUII diversions, but with some express time limitations:
  - a. Time of eligibility, ORS 813.210(1), extended through December 31, 2021; and
  - b. Time to apply for extension, ORS 813.225(1), extended through December 31, 2021.
7. The statutory authority described in paragraph 4 of these findings permits further extension of the time limitations described in paragraph 6 of these findings, continuing for 60 days after the declaration of the COVID-19 state of emergency is no longer in effect. I have determined that a further extension would benefit state court operations as the courts continue to navigate circumstances relating to the pandemic.
8. For the reasons given by Governor Brown in declaring a COVID-19 state of emergency and in extending that state of emergency, and for the reasons stated in paragraph 7 above, I find that good cause, as that term is used in Oregon Laws, chapter 12, section 6(1)(a) and described in paragraph 4 of these findings, exists to extend statutory time periods and time requirements in DUII diversions, as updated and set out in this order.

I HEREBY ORDER, pursuant to ORS 1.002 and Oregon Laws 2020, chapter 12, section 6, that:

1. This order applies to DUII diversions governed by ORS 813.200 to 813.328 and extends or provides authority to extend statutory time periods and time requirements during the COVID-19 state of emergency as described below, and continuing for 60 days after the declaration of that state of emergency is no longer in effect.

2. Eligibility for diversion agreement

Notwithstanding ORS 813.210(1), a defendant who was eligible for diversion on March 8, 2020, is eligible for DUII diversion during the COVID-19 state of emergency, provided that the defendant is otherwise eligible under ORS 813.215. The COVID-19 state of emergency constitutes existence of good cause for extension of the period of eligibility, and a defendant need not file a motion for extension of the period of eligibility.

3. Application for extension of diversion period


Notwithstanding ORS 813.225(1), a defendant who has executed a DUII diversion agreement may apply for an order extending the diversion period by filing an application for diversion at any time prior to the end of the diversion period. The Presiding Judge also may consider an application filed after the end of the diversion period for good cause.

4. Extension of diversion period

Notwithstanding ORS 813.225(5), the Presiding Judge may extend the DUII diversion period as necessary to allow the defendant sufficient time to complete the conditions of the diversion agreement.

5. This order supersedes CJO 21-034 (Order Extending Statutory Time Periods and Time Requirements in Driving Under the Influence of Intoxicants (DUII) Diversions) (September 1, 2021).
6. This order takes effect immediately. The authority granted by this order terminates 60 days after the declaration of the COVID-19 state of emergency or any extension is no longer in effect, or pursuant to further Chief Justice order, whichever first occurs.

Dated this 15th day of December, 2021.

  
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Martha L. Walters  
Chief Justice