

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE 5<sup>TH</sup> JUDICIAL DISTRICT, CLACKAMAS COUNTY

<b>In the Matter of Imposing "Level 3"</b>	)	<b>PRESIDING JUDGE ORDER NO. 2020-07</b>
<b>Restrictions on Clackamas County</b>	)	
<b>Circuit Court Operations in response</b>	)	ORDER IMPOSING "LEVEL 3"
<b>to the spread of COVID-19 Corona Virus</b>	)	RESTRICTIONS ON CLACKAMAS
	)	COUNTY CIRCUIT COURT OPERATIONS

This Presiding Judge Order operationalizes Chief Justice Order No. 20-006 (Amended) for the Clackamas County Circuit Court.

In accordance with the Governor's emergency declaration, Chief Justice Order No. 20-006 (Amended), and the current thinking of public health professionals, I am directing institution of Level 3 Restrictions on Clackamas County Circuit Court operations beginning March 30, 2020 immediately and continuing until further order of the Court.

Level 3 restrictions significantly limit the number of persons in Clackamas County Circuit Court facilities. Our goal is to do our part to help slow the spread of the COVID-19 Corona Virus and to minimize health risks to judges, court employees, attorneys, litigants, witnesses, interpreters, law enforcement and others who come to our courthouse, while meeting the courts' obligations to the public.

This is a dynamic situation and things are changing very quickly. The court is doing its best to serve and protect this community. We will continue to evaluate and adjust as new information and guidance becomes available.

ORS 1.002(8) provides "...the presiding judge of each judicial district of this state are the administrative heads of their respective courts. They are responsible and accountable to the Chief Justice of the Supreme Court in the exercise of their administrative authority and supervision over their respective courts.

I HEREBY ORDER, pursuant to ORS 1.002(8), that the following "Level 3" restrictions on Clackamas County Circuit Court operations will take effect at the beginning of business on March 30, 2020, and will be in effect until further order of the Court:

1. Definitions. As used in this order:
  - a. "High risk" includes the category of persons whom the Centers for Disease Control has identified as being at high-risk for serious illness due to COVID-19, and similarly situated persons. As of the date of this order, that category includes the following persons:

- (1) Persons 65 and older;
- (2) Persons with high risk conditions including chronic lung disease or moderate to severe asthma or serious heart conditions;
- (3) Persons with certain underlying medical conditions, particularly if not well controlled, such as diabetes, renal failure, or liver disease and also chronic kidney disease or metabolic disorders;
- (4) Persons with weakened immune systems, including from cancer treatment;
- (5) Persons of any age with severe obesity (body mass index [BMI]>40);
- (6) Persons who live in a nursing home or long-term care facility;
- (7) Persons who are pregnant;
- (8) Persons without housing.

c. "Remote means" means conducting a hearing or proceeding, or other gathering, by telephone, other two-way electronic communication device, or simultaneous electronic transmission.

d. "Social distancing" means the minimum amount of physical distance between each person. The distance shall be determined by the social distancing requirements specified by an Executive Order issued by the Governor. As of the date of this order, the distance is 6 feet between each person.

## 2. Jury Trials

- a. All non-custodial criminal jury trials scheduled to begin during the period of these Level 3 restrictions shall be postponed until after June 1, 2020, with no motion to that effect needed unless indicated in (b) below. No new jury trials shall be scheduled during the period of these Level 3 restrictions.
- b. Jury trials for defendants who are in custody on felony charges that provide them with a statutory or constitutional right to a jury trial shall occur. Absent a party's motion to postpone such a trial, the court shall not postpone such trials unless it determines that postponement will not violate a statutory or constitutional right.
- c. All civil jury trials scheduled to begin during the period of these Level 3 restrictions shall be postponed until after July 6, 2020, with no motion to that effect needed. No new jury trials shall be scheduled during the period of these Level 3 restrictions.

### 3. Forcible Entry and Detainer Proceedings

- a. Petitioners may file a FED complaint and the Court shall issue a summons for service unless prohibited by law in a form required by law.
- b. All first appearances under ORS 105.137(1) shall be postponed until after June 1, 2020, without the need for a motion. All parties who are required to appear on the date set by summons shall be deemed to have appeared, and no answer shall be required at that time. When the date for first appearance is rescheduled by the court, notices will be sent to the parties, by first class mail, and all parties shall appear at such first appearances in person on the date, time and place set. Lawyers who are OSB members may be notified by email.
- c. All trials under ORS 105.137(6) currently scheduled through July 6, 2020 shall be postponed. A landlord that wishes to have the court enter an order that a defendant pay rent pending trial must file a motion for such an order.

### 4. All Other Trials and Hearings

The court shall postpone and not schedule any other hearings or trials during the period of these Level 3 restrictions, except in the following circumstances which shall be conducted remotely, unless otherwise ordered:

- a. In-custody: arraignments, probation violations, sentencings, aid and assists, pleas, release hearings and any other hearing that will lead directly to the release of the defendant or resolution of the case.
- b. Grand jury proceedings or preliminary hearings for in custody felony indictments;
  - (1) Out of custody preliminary hearings shall be continued at least 60 days;
- c. Case scheduling or docket management hearings;
- d. Civil Commitment hearings;
- e. In Juvenile proceedings:
  - (1) Protective Custody Order applications;
  - (2) Jurisdiction, disposition, shelter and motions to dismiss hearings and trials, if constitutionally required.
  - (3) Delinquency in-custody initial appearances; and

- (4) 10-day detention review hearings and 28/56-day detention duration hearings for in-custody youth;
- f. In Family proceedings:
  - (1) Expedited Motion for Parenting Time or enforcement of parenting time;
  - (2) Immediate Danger motions and hearings;
  - (3) Protective Order applications (Family Abuse Prevention Act, Elderly Persons and Persons with Disabilities Abuse Prevention Act, Sex Abuse Protective Orders, Emergency Risk Protection Orders, and Stalking Orders);
  - (4) Contested Protective Orders and exceptional circumstance hearings; and
  - (5) Prejudgment and post judgment status quo hearings; and
  - (6) In-Custody Violation of Restraining Order trials.
- g. In Probate proceedings, emergency temporary guardianship or conservatorship *ex parte* motions;
- h. Treatment court proceedings which can be conducted by observing social distancing or that the treatment court judge determines is necessary to be in person for a specific individual;
- i. Other circumstances in which a Presiding Judge determines that a postponement or failure to schedule would violate a statutory or constitutional right or is essential as determined by the Court upon motion/declaration/order of a party.

5. All Other Direct Court Services

- a. The Clackamas County Circuit Court will continue to provide limited and necessary legally required in-person services at a minimum staffing level during the period of these Level 3 restrictions:
  - (1) Accept filings and cashiering;
  - (2) Case processing for civil, criminal, family, juvenile, probate and traffic;
  - (3) Calendaring;
  - (4) Jury;
  - (5) Judicial Support (i.e., courtroom staffing);
  - (6) Records management;
  - (7) Court Administration (e.g., personnel, budget, financial accounting, information technology); and
  - (8) Family Law Facilitation.

- b. Clackamas County Circuit Court Clerk's Office reduced in-person business hours with minimum staffing levels shall be Monday-Friday, 10:00 a.m. to 4:00 p.m., during the period of these Level 3 restrictions. All in-person services must be provided observing social distancing.
  - c. Phones shall be answered during reduced court business hours, Monday-Friday, 10:00 a.m. to 4:00 p.m.
  - d. Where practicable, services may be provided remotely using technology.
  - e. If a person seeking in-person services shows symptoms associated with COVID-19 Corona Virus, the court may refuse service to the person and direct the person to leave the courthouse.
6. Presiding Judge Authority
- a. The Presiding Judge may order that a particular trial, hearing, or other court operation will take place if the assigned judge, upon motion or petition of a party filed with a proposed order, determines that there is a need for in-person court action, that social distancing can be required, and that the court can order other reasonable precautions to protect the health of all participants.
  - b. The Presiding Judge may suspend any Supplementary Local Rule that may be an impediment to Level 3 operations.

7. Requirements for All In-Person Court Operations

For all in-person trials, hearings and operations, the court shall, when reasonably possible and considering the need for safety measures, take the following precautions:

- a. Require social distancing and no more than 25 persons in a courtroom or courthouse location; and
- b. Maintain vigilance about cleaning in accordance with Clackamas County Facility standards and OJD guidelines.

8. Expectations for Lawyers

When in-person trials are held, attorneys are expected to appear in-person. For all other in-person hearings, the court encourages attorneys to appear remotely, telephonically or by videoconferencing. Clackamas County courtrooms are equipped with telephone conferencing equipment supporting up to two simultaneous remote callers. Our court has limited video conferencing capability but will assist litigants and attorneys in providing such video & telephonic capability.

An attorney who has concerns about appearing in-person due to COVID-19 Corona Virus concerns should seek to be excused, request a postponement or remote appearance if desired and feasible, and, if necessary, take steps to help the client find substitute counsel.

#### 9. Remote Work Assignments

All judges and court staff are assigned to work from home and should not come into the courthouse to work, unless the Presiding Judge or Trial Court Administrator direct they come to work to provide court services in accordance with these Level 3 restrictions.

- a. The Presiding Judge will designate which judges are directed to report to the court for work.
- b. The Trial Court Administrator, in consultation with her Management Team comprised of supervisors, will designate which court employees are directed to report to the court for work.

#### 10. Public Safety and Community

- a. Our court is working with the Chief Justice, her Criminal Justice Advisory Committee, Clackamas County justice system leaders, our Local Public Safety Coordinating Councils, and other stakeholder groups to explore system issues and ensure the health of those who are incarcerated and coming to court.
- b. Our court and Clackamas County criminal justice system leaders are exploring current arrest and detention policies including use of cite-in-lieu of arrest where appropriate to keep jail populations at a minimum.
- c. Our court will continue to work with local attorneys and the Clackamas County Bar Association to ensure that every possible opportunity to reduce risk and preserve the function of Oregon courts has been identified and explored.

#### 11. Meetings and Conferences, and Travel

- a. No in-person meetings or conferences of more than 5 people may be held, except as authorized by the Presiding Judge or Trial Court Administrator. Judges and staff should hold or attend meetings of 5 or fewer persons only after weighing the benefits and risks and the available alternatives. Participants shall maintain social distancing. Those who do not participate in person should try to attend remotely.

- b. All other meetings and conferences should be conducted remotely.
- c. All in-state and out-of-state work-related travel is prohibited, except as authorized by the State Court Administrator or designee.

12. Notice and Communication

The Presiding Judge and Trial Court Administrator will work together to:

- a. Use all reasonable means to inform judges, court employees, attorneys and the public of these restrictions; and
- b. Post information about these restrictions and local court operations on the court's webpage.

13. These Level 3 restrictions are to be in effect at the beginning of business on March 30, 2020. They will continue until further order of the court.

14. This order takes effect immediately.

Dated this 30<sup>th</sup> day of March, 2020.



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Kathie F. Steele, Presiding Judge  
Clackamas County Circuit Court