

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JOSEPHINE COUNTY

IN THE MATTER OF RESTRICTION OF  
COURT OPERATIONS DURING THE  
COVID-19 PANDEMIC COMBINED

PRESIDING JUDGE ORDER

202012

AMENDED

STATE COURTS - JOSEPHINE

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Whereas the conditions and impacts resulting from COVID-19 are changing rapidly in accordance with Governor Kate Brown's emergency declaration, the current thinking of experts in public health, and Chief Justice Order 20-016.

I HEREBY ORDER that while CJO 20-016 is in effect the 14<sup>th</sup> Judicial District, Josephine County Circuit Court, will comply with all provisions outlined in the order and;

I HEREBY ORDER:

Definitions:

- "Courthouse" means the common areas open to the public, courtrooms and work areas for court personnel in the Josephine County Courthouse, Juvenile Justice Center and any other facility utilized by the Josephine County Circuit Court for business or proceedings.
- "Protective face covering" means a covering of the nose and mouth to protect against spreading the COVID-19 virus, as recommended by the Centers for Disease Control (CDC).
- "Six feet of social distancing" means maintaining six or more feet of social distancing at all times.
- "Remote means" shall include appearances by any or all parties via video, telephone or other two-way electronic communication device or venue, at the designation of the court and as permitted by statute, court rule, CJO 20-016, or any amendments thereto.

**1. Court Hours and Services**

- The court's current public service hours to accept filings, take payments, and answer phones remain in effect and are as follows: Josephine County Circuit Court shall be open from 8:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. for conducting the business of the court. Each court unit will have a clerk or designee available during business hours to provide in-person and telephonic services. All in-person services will be provided while observing social distancing.

## **2. Personal Protective Equipment**

All persons entering the Courthouse are required to wear a protective face covering while in the Courthouse except for children five (5) years of age and under, jurors during voir dire, witnesses while testifying, or others while speaking in court and as provided below.

- A judge may remove a protective face covering while presiding over a trial or other proceeding in a courtroom, while in chambers, and/or when moving about the Courthouse so long as six-foot social distancing is maintained.
- A judge presiding over a trial or other proceeding in a courtroom may authorize any person participating in the trial or other proceeding to remove their protective face covering to facilitate communication as the judge deems appropriate.
- A judge presiding over a jury trial shall authorize a criminal defendant to decline to wear a protective face covering for all or any portion of the trial unless good cause is stated on the record.
- Judges and judicial employees working in non-public workspaces in an area where a six-foot distance may be maintained may remove a protective face covering while working in that area. Court employees and personnel must use a protective face covering whenever a six-foot distance may not be maintained or when working with the public without a physical barrier.
- Any person entering the Courthouse without a protective face covering because of a medical, respiratory, disability, health-related issues, or otherwise has good cause is exempt from the required use of protective face coverings. If a person is not wearing a mask inside court facilities and states they are doing so due to an underlying health condition, no further inquiries shall be made.

## **3. Court Filings**

Parties may continue to file pleadings and other documents. Parties are strongly encouraged to use e-filing to the fullest extent possible. Documents will be processed in normal course.

- In-person filings will continue to be accepted Monday-Friday from 8:00 am to noon and from 1:00 pm to 4:00 pm at both court locations.

#### 4. Jury Duty

- Some matters requiring jurors have been deemed to be essential matters that must continue to occur even while restrictions are in place. We are working to keep the courthouse a safe place for jurors, staff, and visitors.
- Individuals who believe they are in a “high risk” group as defined by the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>) or are currently experiencing symptoms of COVID-19 should contact the jury coordinator at [JOS.Jury@ojd.state.or.us](mailto:JOS.Jury@ojd.state.or.us), the preferred contact method, or by telephone at 541-476-2309 ext. 4536.
- Individuals with further questions about jury duty may check the court website at: <https://www.courts.oregon.gov/courts/josephine/jury/default.aspx>
- Jury proceedings shall be conducted in compliance with the social distancing requirements defined in CJO 20-016(1)(f) as well as strict cleaning guidelines per the recommendations from the health department, including disinfecting objects and surfaces between each use. These social distancing requirements shall be in effect in all courtrooms and throughout all the court-controlled areas of the Courthouse.
- Jurors shall wear face coverings as a reasonable precaution to protect the health of all participants so long as the court record is adequately maintained. Jurors may wear their own face covering or the court will provide one to them if requested.

#### 5. Grand Jury

- Individuals summoned for grand jury should respond as instructed. Individuals who believe they are in a “high risk” group as defined by the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>) or are currently experiencing symptoms of COVID-19 should contact the jury coordinator at [JOS.Jury@ojd.state.or.us](mailto:JOS.Jury@ojd.state.or.us), the preferred contact method, or by telephone at 541-476-2309 ext. 4536.
- Jury proceedings shall be conducted in compliance with the social distancing requirements defined in CJO 20-016(1)(f) as well as strict cleaning guidelines per the recommendations from the health department, including disinfecting objects and surfaces between each use. These social distancing requirements shall be in effect in all courtrooms and throughout all the court-controlled areas of the Courthouse.

- Jurors shall wear face coverings as a reasonable precaution to protect the health of all participants so long as the court record is adequately maintained. Jurors may wear their own face covering or the court will provide one to them if requested.

**6. Suspend Supplemental Local Rules (hereinafter SLRs)**

The court hereby suspends until further notice any Josephine County Court SLRs that are not in agreement with this PJO.

**7. Jury trials in criminal and civil cases**

Jury trials shall be held in-person.

**8. Bench trials in any case**

Bench trials in criminal and civil cases may be held in-person or, if permitted by law by remote means.

- Criminal bench trials will be held presumptively in-person with the exception of violation bench trials which will be held presumptively by remote means.
- Civil bench trials including family law, small claims, dependency and probate will be held presumptively by remote means.

**9. Arraignments**

Notwithstanding ORS 131.045(2) AND (3), ORS 135.030(3), and ORS 135.360(3) this court will permit parties and attorneys to appear remotely for any arraignment or category of arraignment.

- The presumption for in-custody arraignments will continue to remain in-person for attorneys and via video for defendant. An attorney may request permission to appear remotely by contacting the criminal unit by email at [JOS.Crim.Unit@ojd.state.or.us](mailto:JOS.Crim.Unit@ojd.state.or.us) no later than 11:00 a.m. the day set for the hearing.
- The presumption for out-of-custody arraignments will continue to be by remote means.

**10. Motions**

Attorneys and parties shall appear remotely for all hearings on motions in civil and out of custody cases unless otherwise specified herein or an exception has been granted by the court. It is the responsibility of the party or attorney appearing remotely to provide the court with a current working phone number and email address for remote appearances.

**11. Small Claims and Civil Mediation**

Will be held presumptively by remote means unless otherwise specified herein or an exception

has been granted by the court.

## **12. Remote Hearings**

Parties shall appear remotely for all remote hearings unless an order for a change in the mode of scheduled proceeding has been granted. The court requires the following information for remote hearings:

- In the pleadings, parties shall provide their email address and phone number as well as the email address and phone number of the other party if known to them. Remote hearing invitations for attorneys will be sent to the email address on file with the Oregon State Bar.
- Parties are required to remain available at the phone number provided to the court beginning at the time the hearing is scheduled to begin and continuing until notified by the court that their matter has concluded. If the court determined that the remote hearing will be via video conferencing, parties shall log into the video conference via the email invitation sent either by court staff or their attorney at the time noted in the invitation.
- The Oregon Judicial Department Remote Hearing Manual contains many guidelines for remote hearings. Josephine County Circuit Court is currently utilizing Cisco Webex Events for video proceedings.
- Witnesses:
  - a. Parties are required to have any witnesses available by WebEx /phone either with them or at a number that can be called by the court at the time of the hearing.
  - b. If a witness is not immediately accessible, then the court may not hear from that witness.
- Exhibits - when a hearing or trial is to be conducted by remote means, any exhibit that can be converted to PDF shall be submitted to the court through the courts electronic filing (e-Filing) system. Multiple exhibits may be submitted within the same e-Filing envelope. Exhibits must be numbered pursuant to UTCR 2.010(9)(a) and must be submitted with a coversheet that includes the number and description of the submitted exhibits as well as a certificate of service. Local templates of this cover sheet are available by visiting <https://www.courts.oregon.gov/Josephine> or contacting the court directly. Individuals that are not able to submit exhibits electronically may contact the court for an instruction sheet on the process for submitting exhibits. Any exhibit that is not able to be converted to PDF is required to be submitted to the court and opposing party no less than 24 hours before

the hearing. Failure to file and serve exhibits timely may result in the court disregarding the exhibits or setting the matter over, for good cause, to allow the parties to receive and review exhibits.

**13. Motions for a change in the mode of proceedings**

- A party seeking to change a scheduled in-person proceeding to a remote proceeding or a scheduled remote proceeding to an in-person proceeding must file a motion with a supporting affidavit or declaration and proposed order to the Presiding Judge for consideration.

The supporting affidavit/declaration must include:

- a. The reasoning and basis for the change in the mode of the proceeding, including statutes that may be implicated by the change and any statutory or constitutional rights that may be implicated by the change.
  - b. The position of the opposing party.
- The Presiding Judge will rule upon a motion for a change in the mode of scheduled proceeding based upon the provisions of CJO 20-016 and any applicable statute or constitutional provision.

**14. Expectation of attorneys appearing in-person**

- Attorneys are expected to appear in-person for trials or hearings that are held in-person unless the attorney is excused or if the Presiding Judge adopts a procedure that allows attorneys to appear remotely. Attorneys are expected to assist the court with maintaining the health and safety of the courthouse. Attorneys shall maintain social distancing while in the courthouse.
- An attorney who has concerns about appearing in-person, or having their client appear in-person, due to illness or COVID-19 concerns should seek to be excused, request a postponement or request to appear remotely if feasible.
- An attorney seeking to appear remotely at a scheduled in-person court appearance due to concerns regarding COVID-19 must submit a motion with a supporting affidavit/declaration and proposed order.
  - a. The affidavit/declaration must include:
    1. Whether the attorney or a member of the attorney's household has a concern based upon confidential protected health information that would

preclude the attorney to safely appear in person at the particular proceeding. Specific confidential protected health information should not be included in the motion or affidavit, as the documents are public record.

2. Whether their client has been notified of and consents to the attorney appearing remotely.

**15. Extending time periods and time requirements in certain criminal proceedings**

The time periods and time requirements described below are extended in the manner provided, but not for longer than the periods set out below:

- Restitution, ORS 137.106
  - a) This subparagraph applies to cases in which sentencing occurred before the effective date of this order, but not longer than 90 days before the effective date of this order.
  - b) The COVID-19 state of emergency constitutes the existence of good cause, and the District Attorney may present evidence of the nature and amount of damages at any time after sentencing, but not later than 90 days after termination of the COVID-19 state of emergency.
  
- Driving Under the Influence of Intoxicants (DUII), eligibility for diversion agreement, ORS 813.210 and ORS 813.225(1)
  - a) A defendant who was eligible for diversion on March 8, 2020, is eligible for diversion until 60 days after termination of 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 such a defendant need not file a motion for extension of the period of eligibility.
  - b) A defendant who has executed a DUII diversion agreement may apply for an order extending the diversion period by filing an application to extend the diversion period at any time prior to the end of diversion. The court may also consider an application filed after the end of the diversion period good cause to extend diversion, if the diversion period expired during the state of emergency, to



allow a defendant sufficient time to complete the conditions of the diversion agreement.

**16. Sentencing in-custody defendants by electronic transmission**

Pursuant to ORS 137.030(1), ORS 131.045, UTCR 4.080 and CJO 20-006 in combination authorizes the court to regulate in-custody appearances and sentencing balancing the competing interests involved. All in-custody sentencings shall be conducted by video as follows:

- The requirements of ORS 131.045 regarding “simultaneous electronic transmission” must be satisfied, particularly that the parties and the court agree to video sentencing, and the defendant can communicate privately with counsel by telephone.
- Misdemeanor Sentencings. If the court is sentencing only on a misdemeanor count(s), and the parties want to both plea and sentence an in-custody defendant by video in the same hearing, the defense attorney must email the criminal clerk at [jos.Crim.Unit@ojd.state.or.us](mailto:jos.Crim.Unit@ojd.state.or.us) no later than 3:00 p.m. the day prior to the proposed plea date, along with full plea negotiations so the court has sufficient time to review them. The criminal clerk will forward the settlement negotiations to the designated judge by 4:00 p.m. the day before the proposed plea date. The court retains the authority to set over any particular misdemeanor sentencing to the block video sentencing time.
- Felony Sentencings. If the court is sentencing on any count charged as a felony, no sentencings will occur on the day of entry of plea. Rather, all such cases will be set over to a block in-custody video sentencing time to be set by the court in order to allow the parties and the court time to prepare for sentencing, including allowing time for the District Attorney’s office to prepare and file a criminal history worksheet, prepare any restitution summary sheets and notify any victims of the sentencing hearing.

**17. Family Law Orders to Show Cause**

Orders to Show Cause filed during COVID-19 restrictions, that result in a hearing being set prior to service of the adverse party (Post-Judgment Status Quo, Enforcement of Parenting Time) will be completed using a locally maintained Show Cause Order. Attorneys shall not submit their own form of order with these filings. Attorneys and self-represented parties shall file their motion (with time estimated for the hearing clearly state per UTCR 5.050), declaration, and supporting documents. When the filing is received, the court clerks will use the local Order to Show Cause that includes information and direction regarding remote hearings. The entirety of the Order



(including attachments) will be made part of the record and shall be served to the adverse party.

#### **18. Specialty court proceedings**

Josephine County Specialty Court proceedings are necessary for the health and wellbeing of the participants as well as the safety of the community. Specialty court staffing may be in person as long as six foot of social distancing and facial coverings are worn as provided for herein. Therefore, the following Specialty Courts will continue to operate by remote means:

- a. Adult Drug Court
- b. Mental Health Court

#### **19. Records**

The Records Department is closed for in-person requests. Records requests are not considered an essential function; therefore, there may be a delay in response time for requests. A public terminal is available in the Josephine County Courthouse lobby during normal business hours. Individuals can request copies by mailing the court request form to the court or emailing the request form to [JOS.CopyRequest@ojd.state.or.us](mailto:JOS.CopyRequest@ojd.state.or.us). The form can be found online at: <https://www.courts.oregon.gov/forms/Documents/CopyRequestForm.pdf>

#### **20. Payments/Collections:**

- The court will accept in-person payments at the accounting window during business hours.
- Individuals can continue to make payments online at:  
<https://www.courts.oregon.gov/services/online/Pages/epay.aspx> .
- Patrons can access the OJD ePay site through the public kiosk located in the main courthouse lobby.
- Payments can also be made by calling 1-888-564-2828.
- Oregon Judicial Department is not referring any new cases to collections at this time.
- The statutory payment assessment fee is being waived at this time.
- Oregon Judicial Department has asked debt collectors for delinquent accounts to discontinue any new garnishment actions and provide grace periods and leniency to debtors.

This Order supersedes all prior Presiding Judge Orders regarding Court Operations during the COVID-19 pandemic including Presiding Judge Orders 20-009, 20-011, 20-013, 20-016, 20-017 and becomes effective immediately.

The measures set forth in CJO 20-016 and this PJO are intended to protect the health and safety of judges, court staff, litigants and their attorneys, and the public.

As circumstances surrounding this public emergency are changing rapidly, the court may amend, extend or rescind this Presiding Judge Order as necessary for the protection of the public and court staff.

It is so ordered this 4th day of September 2020.



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Robert S. Bain  
Presiding Judge