

In the Matter of Imposing Updated Social Distancing Requirement) CHIEF JUSTICE ORDER
) No. 21-035
)
) ORDER IMPOSING UPDATED SOCIAL DISTANCING REQUIREMENT
)
)

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; ORS 1.171(3) provides that the Presiding Judge may assign actions and proceedings pending before a court to other judges of the judicial district for hearing and disposition; 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 issued an emergency declaration relating to the spread of the COVID-19 virus (“COVID-19 state of emergency”). On June 25, 2021, Governor Brown issued Executive Order 21-15, which extended the COVID-19 state of emergency to December 31, 2021.
 4. Since March 16, 2020, I have issued many Chief Justice Orders (CJOs) relating to the COVID-19 state of emergency, including:
 - a. CJO 21-025 (June 28, 2021), Establishing Updated Directives Relating to Court Operations (including, in paragraph 2.a., a lifting of social distancing requirements generally) and superseding CJO 21-009 (March 11, 2021) (Order Imposing Updated Restrictions on Court Operations, including social distancing in all parts of any court facility); and
 - b. CJO 21-030 (August 13, 2021), Requiring Use of Protective Face Coverings in the Oregon State Courts.

5. On July 30, 2021, the Centers for Disease Control and Prevention (CDC) issued Guidance to the effect that local decision-makers should assess certain factors to inform the need for prevention strategies to minimize preventable morbidity and mortality related to COVID-19, including the level of COVID-19 transmission, health system capacity, vaccination coverage, capacity for early detection of increases in COVID-19 cases, and populations at risk for severe outcomes from COVID-19. While emphasizing that vaccines are the most effective tool to prevent transmission of COVID-19, the CDC also has stated that multiple interventions should be used concurrently to reduce transmission and recommends social distancing as one such mitigating measure.
6. Beginning on August 13, 2021, as a result of the rapid and extensive spread of the highly contagious Delta variant of the COVID-19 virus, Governor Brown has announced a series of measures designed to prevent the spread of the virus and to mitigate the risk to and impacts on public health and statewide hospital capacity. Those measures have included statewide requirements to wear protective face coverings both indoors and outdoors, with exceptions, and a vaccination requirement for state executive branch employees. Governor Brown has cited new modeling from the Oregon Health Authority (OHA) and the Oregon Health and Science University projecting that, without new health and safety interventions in place, COVID-19 hospitalizations would far exceed Oregon's health system capacity within the next several weeks.
7. On August 24, 2021, Governor Brown announced that the Delta variant had created a level of crisis not yet seen during the pandemic in Oregon, with cases of COVID-19 and hospitalizations statewide at a record high. The variant also has significantly impacted court operations across the state.
8. My goal in issuing this order is to continue to meet our courts' obligations to the public while also continuing to minimize health risks for judges, staff, litigants and case participants, interpreters, and members of the public who come into our courthouses and offices.

This Order is based on the foregoing and on currently available information concerning the risks and spread of the COVID-19 virus, and may be revised as further information becomes available or as directives from the Governor or guidance from health authorities change.

I HEREBY ORDER, pursuant to the foregoing authority, and as provided further below, that the following social distancing requirements take effect as soon as possible, but no later than September 13, 2021. This order remains in effect until further order of the Chief Justice.

1. Definitions. As used in this order:
 - a. "Court facility" means the courthouse or any alternative physical location being used by the court or the Office of the State Court Administrator, but not any part of a building or location that is not under the court's control.
 - b. "Presiding Judge" means the presiding judge of a judicial district. For purposes of this order, "Presiding Judge" includes the Chief Judge of the Court of Appeals and the Tax Court Judge.

- c. "Social distancing" means the minimum amount of physical distance between each person. As of the date of this order, pursuant to CDC recommendations, the distance is 6 feet between each person.
- 2. Social Distancing Requirement, Public Areas of a Court Facility
 - a. All courts shall require and maintain social distancing in the courtroom and throughout all other court-controlled, public areas of a court facility, unless the Presiding Judge determines that other sufficiently protective measures can be taken and directs that those measures be taken.
 - b. Notwithstanding the social distancing requirement described in subparagraph 2.a., a judge presiding over a proceeding may grant an exception to members of the same household attending the proceeding or to permit a lawyer and client to confer.
- 3. The requirements of this order continue until further order.
- 4. This order supersedes paragraph 2.a. of CJO 21-025 (Social distancing, generally) and any provision of any Presiding Judge Order currently in effect that conflicts with this order.
- 5. Courts must implement this order as soon as possible, but no later than September 13, 2021.
- 6. This order is effective immediately.

Dated this 7th day of September, 2021.



Martha L. Walters
Chief Justice