

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

In the Matter of:

**IMPLEMENTING AMENDED CHIEF
JUSTICE ORDER NO. 20-006 IN
CERTAIN CRIMINAL PROCEEDINGS**

**Presiding Judge Order
2020-13**

On March 8, 2020, Oregon Governor Kate Brown issued Executive Order 20-03 declaring that the COVID-19 virus created a threat to public safety and health and constituted a statewide emergency. On March 11, 2020, the World Health Organization declared the COVID-19 virus to be a pandemic of global proportions. On March 13, 2020, U.S. President Donald Trump declared a national state of emergency related to the COVID-19 virus. On March 23, 2020, Governor Brown issued Executive Order 20-12 requiring Oregonians to stay at home and closing specified businesses.

On Monday, March 16, 2020, Oregon Supreme Court Chief Justice Martha Walters issued Order No. 20-006 imposing Level 3 restrictions on court operations due to the Governor’s emergency declaration regarding the COVID-19 virus. On March 27, 2020, Chief Justice Walters issued Amended Order No. 20-006 (the “Amended CJO”), which extended the Level 3 restrictions and postponed most trials and nonessential hearings until after June 1, 2020. The Amended CJO is designed to slow the spread of the COVID-19 virus and to minimize health risks to court personnel, litigants, representatives, and others who come to courthouses, while meeting the courts’ obligations to the public. The restrictions imposed under the Chief Justice’s orders may be extended beyond June 1, 2020, depending on the circumstances surrounding the COVID-19 virus. The Amended CJO gives the Presiding Judge of each Circuit Court authority to determine whether certain criminal law proceedings should be held during Level 3 restrictions.

The conditions described above constitute good cause for delaying certain proceedings or modifying procedures in certain criminal cases. Paragraph 4(a)(2) of the Amended CJO authorizes the Presiding Judge to order that a certain proceeding may be held while the Level 3 restrictions are in place if the Presiding Judge determines that the proceeding should be held; that it can be conducted by remote means or by maintaining sufficient social distancing for any participants appearing in person; and that other reasonable precautions can be taken to protect the health of participants.

Accordingly, for the reasons stated above, IT IS HEREBY ORDERED that, during Level 3 restrictions, in addition to the proceedings expressly permitted in the Amended CJO, the following proceedings may be conducted with the limitations described below:

1. Out-of-custody misdemeanor and felony arraignments may be held in person while the Level 3 restrictions are in effect in the cases listed in Attachment 1 to this order. While operating under Level 3 restrictions, defendants being arraigned in felony cases may appear by telephone pursuant to ORS 131.045 and 135.030 if the parties stipulate to telephonic appearance. The defendant must be provided an opportunity to consult confidentially with defense counsel during the proceeding if requested. All other out-of-custody arraignments will be delayed or postponed; counsel will be appointed at the time of the arraignment.
2. Out-of-custody misdemeanor plea hearings and civil compromise hearings may be held with parties appearing remotely. Defense counsel shall file all written documents 48 hours in advance and notify the prosecutor so notice to victims may occur.
3. Out-of-custody felony plea hearings may be held with defendant and counsel appearing in person maintaining social distancing if, in the Presiding Judge's discretion, holding the hearing while the Level 3 restrictions are in effect best serves the public interest.
4. In-custody misdemeanor and felony pleas may be scheduled on any in-custody video docket set before the A and B docket judges as long as the defense attorney files all plea documents at least 48 hours in advance and notifies the prosecutor so notice to

victims may occur. Criminal docketing shall determine which docket to prevent overcrowding. Defense attorneys may also appear remotely.

5. In-custody substitution hearings involving a breakdown of communication or when requested by defendant may be held in-person, observing social distancing, in front of the Presiding Judge. Defense counsel may appear remotely. Substitutions in cases involving actual conflicts will be held remotely or by Motion/Declaration/Proposed Order to the Presiding Judge.
6. Modification of release hearings in domestic violence cases may be held when requested by the victim. The parties and victim must appear in person. Criminal docketing will schedule said hearing on the CMA or complex criminal docket.
7. Requests to lift a warrant in misdemeanor cases may be heard by the A or B docket judge. Parties may appear remotely, and defendants must be present via telephone. If a defendant presents at the courthouse, law enforcement will immediately accompany the defendant to the A or B docket judge for said request. If a defendant presents at the Clackamas County Jail, s/he will be advised to write to the judge issuing the warrant for disposition. If a warrant is quashed, further appearance will be scheduled.
8. Requests to lift a warrant may be decided by the Presiding Judge *ex parte* if stipulated or unopposed.
9. Motion hearings, including requests for in-camera inspection and other hearings for which defendant's presence is not required may be conducted remotely, as assigned by criminal docketing.
10. Treatment Court hearings as set by the appropriate treatment court judge may be held as needed; hearings are to be conducted remotely if possible. Social distancing is required for any in-person hearings.
11. Case management hearings in Measure 11 cases already scheduled or those set in new in-custody cases may be held. Parties are to appear remotely or by remote means.
12. Judicial Settlement Conferences (JSCs) for in-custody defendants may be held with the defendants and counsel appearing in person where both attorneys represent to the court that they feel the JSC is reasonably likely to directly lead to the release of the defendant or the resolution of the case.

13. Any other proceeding that the Presiding Judge determines should occur, while Level 3 restrictions are in effect, that can be conducted remotely or by remote means and/or by maintaining social distancing and where other reasonable precautions are available to protect the health of the participants.
14. Individual judges may relax attire requirements when they preside over a particular docket.
15. "By remotely" in this Order means by telephone or by video means if the court and parties are capable and willing.

This order takes effect immediately and shall remain in place until amended by further order or terminated by this court.

DATED this 20 day of April 2020.



Kathie F. Steele
Clackamas County Circuit Court
Presiding Judge

Attachment 1

1. All cases designated as “Constituting Domestic Violence,” including contempt of court related to violating a restraining order or other protective order.
2. All Class A and Class B felonies, except for charges under ORS 475.752 – 475.884, ORS 475.894 – 475.904 and any offense listed in ORS 161.705(1)(b).¹
3. Criminal Mistreatment in the First Degree or Criminal Mistreatment in the Second Degree;
4. Bribing a Witness or Tampering with a Witness;
5. Custodial Interference in the Second Degree;
6. Subjecting Another Person to Involuntary Servitude in the Second Degree;
7. Rape in the Third Degree, Sodomy in the Third Degree, Purchasing Sex with a Minor, Sexual Abuse in the Third Degree, Sexual Abuse in the Second Degree, Online Sexual Corruption of a Child in the Second Degree, Contributing to the Sexual Delinquency of a Minor, Custody, Public Indecency, Felony Unlawful Dissemination of an Intimate Image, Unlawfully Being in a Location Where Children Regularly Congregate, Encouraging Child Sexual Abuse in the Second Degree, Encouraging Child Sexual Abuse in the Third Degree, Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree, Invasion of Personal Privacy in the Second Degree, or Invasion of Personal Privacy in the First Degree;
8. Stalking or Violating a Court’s Stalking Protective Order; or
9. An attempt to commit any offense listed in 1(c) to 1(h).

¹ Drug offenses that are to be arraigned are Delivery or Manufacture of Methamphetamine under 475.886 - 475.892; Unlawful Delivery to Minors under 475.906 - 475.907; Causing another person to ingest a controlled substance under 475.908; and Application of controlled substance to the body of another person under ORS 475.910.