



June 25, 2020
(SENT BY EMAIL ONLY)

Joint Committee on the First Special Session of 2020
900 Court St. NE, Room 347
Salem, OR 97301

Re: COVID-19 and Oregon's Justice System: Support for HB 4212 (LC 45), With
Consensus Amendments to Section 6, Subsection 3

Dear Co-Chairs Courtney and Kotek; Co-Vice Chairs Girod and Drazan; and Members of the
Joint Committee on the First Special Session of 2020:

The Oregon Judicial Department (OJD) must continue to provide essential court services during this pandemic, but we also must protect the health and safety of justice system participants. To do that, we need your help. We have submitted prior testimony to this Committee and the Joint Committee on Coronavirus Response, as attached. OJD has also presented to both the Senate and House Interim Judiciary Committees on the challenges to our justice system where these challenges were presented in detail. A link to the House presentation and additional materials is available [here](#).

This testimony will address the new consensus provisions in HB 4212, Section 6, Subsection 3 that address trial timelines for those in custody. Should you have additional questions about Subsection 1 (granting authority to extend timelines), Subsection 2 (extending appearance timelines for citations), or Subsection 4 (ensuring flexibility for remote hearings) we would be glad to address those.

1. The Challenges of Jury Trials During the Pandemic

Oregon is unique in that most individuals who remain in custody pending trial must be brought to trial within 180 days or be released. In most states trials have been postponed, yet Oregon's courts continue to hold trials, consistent with ORS 136.290 and ORS 136.295, which impose 60- and 180-day limits for those who are in custody as they await trial.

We are now faced with an unparalleled test of this statute as hundreds, possibly thousands, of jury trials will be required by law in the coming months. This is so because hundreds of cases have been postponed since March, often at the request of legal advocates, and new cases are coming in each day.

Jury trials involve bringing dozens – and in some instances hundreds – of prospective jurors in to a shared, enclosed space. Once empaneled, the jury must remain in a secured space for

days at a time. Witnesses, victims, attorneys, staff, judges, and supporters are all gathered together for the duration of the trial, and anyone in custody must be transported between jail and the courthouse each day, and sometimes multiple times per day. Maintaining appropriate social distancing requires the use of significant amounts of space – often numerous courtrooms at a time – for a single jury trial. Many staff members are required to escort groups and individuals to separate spaces, monitor these spaces, and respond to people’s needs as the trial progresses. Supporting jurors and their needs during the pandemic also requires a great deal of staff and space. Courts must constantly manage the challenges of trials while meeting other demands including urgent matters in family law, child welfare, business, landlord-tenant, and other civil cases.

In addition to concerns regarding the management of these trials, courts have heard numerous concerns about trials proceeding in the normal course, including from defense counsel, members of the public, and members of the Legislature. These objections address public health as well as the rights of the accused.

Unlike court systems in other states, the Chief Justice and judges across the state are without the ability to suspend mandatory timelines established by statute that affect court proceedings, filings, and appearances. In many other states, such changes can be made by court rules or orders. The need for this legislation will grow ever more urgent as we face a rise in COVID-19 cases, a rising backlog of court cases, including potentially thousands of cases that require trial by jury as they have been postponed for months, and an anticipated tsunami of landlord-tenant matters after the eviction moratorium expires.

Oregon’s courts need flexibility now.

a. HB 4212, Section 6, Subsection 3 Addresses the Need for Flexibility in Cases Where Trials Cannot Safely Proceed and Defendants Cannot Safely Be Released

Section 6, Subsection 3 is a product of three months of drafting, review, and editing between the Oregon Judicial Department, Judiciary Committee counsel, Legislative Counsel and key stakeholders including the Oregon Criminal Defense Lawyers Association, the Oregon District Attorneys Association, the Attorney General’s office, and leaders of the civil and criminal bars of Oregon who all came to consensus on the bill language. We are very grateful to our partners who worked diligently to try to achieve an appropriate balance of public health, public safety, and the need to preserve and protect the rights of people accused of a crime. We appreciate that this was a challenging process for all, and that our partners demonstrated professionalism and collaboration.

The new consensus on Section 6(3) will allow for up to a 60-day extension of the time to conduct trial of a defendant accused of a person crime, beyond the current 180-day limit, should the court find that:

- 1. Circumstances caused by the pandemic establish a good-cause delay of the trial date; and**

2. **There is clear and convincing evidence of substantial and specific danger of physical injury or sexual victimization to the victim or members of the public should release occur, and**
3. **No release conditions could sufficiently mitigate that danger.**

This standard is designed to briefly extend custody only in cases where dangerousness is of serious concern and where trial truly must be postponed. The ability of a court to make such an extension of the 180-day limit would expire 60 days after the end of any declaration of emergency, or extension thereof.

The Chief Justice, our judges and staff remain committed to listening and responding to how these measures are impacting your community. We welcome feedback through circuit court leadership and to our management teams at cjofeedback@ojd.state.or.us.

Thank you for all the work you are doing to serve and safeguard Oregonians.

Sincerely,



Martha L. Walters
Chief Justice

MLW:NC:jm/20eMLW022jm
Attachments



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

June 22, 2020
(SENT BY EMAIL ONLY)

Joint Interim Committee on the First Special Session of 2020
900 Court St. NE, Room 347
Salem, OR 97301

Re: COVID-19 and Oregon's Justice System: Support for LC 45, Section 14, LC 84, Section 6

Dear Co-Chairs Courtney and Kotek; Co-Vice Chairs Girod and Drazan; and Members of the Joint Interim Committee on the First Special Session of 2020:

The Oregon Judicial Department (OJD) must continue to provide essential court services during this pandemic, but we also must protect the health and safety of justice system participants. To do that, we need your help. We have taken several steps to curtail in-court proceedings and have rapidly expanded remote hearings and services, but we need additional statutory authorization to take additional measures, as reflected in LC 45, Section 14 and LC 84, Section 6. What follows is a description of the legislation and a summary of actions we have taken and will continue to take, pursuant to existing authority.

1. Oregon's Judicial Branch Seeks Legislation Granting the Chief Justice the Ability to Extend or Suspend Certain Mandatory Timelines

Oregon's judicial branch seeks statutory authority for the Chief Justice to extend or suspend certain statutory timelines and to clarify the Chief Justice's authority to order remote participation in court proceedings as needed to address this public health emergency. This authority would extend to both criminal and noncriminal (civil) timelines after the case has been initiated and could be exercised only during the time in which the Governor declares a state of emergency and for sixty days thereafter.

Though courts have existing statutory discretion to extend some deadlines, many statutes require a judge, clerk, or litigant to act on a strict time frame, and does not provide judicial authority to suspend or extend those deadlines. Other statutes may be understood to require in-person appearances, or pose obstacles to ordering remote appearances. We are requesting Chief Justice authority to suspend or extend such deadlines and requirements for in-person appearances. Our courts have been able to accomplish a great deal, notwithstanding the challenges of the pandemic, but as our state reopens and cases are on the rise, flexibility is needed to protect the health, rights, and safety of parties, litigants, jurors, and others involved in the justice system.

Since similar legislation was first proposed in March, our courts have been able to continue serving the public and those who need resolution in critical matters. Yet, certain challenges remain, and

this legislation will grow ever more urgent as we face a rise in COVID-19 cases, a rising backlog of court cases, including cases that require trial by jury, and an anticipated tsunami of landlord-tenant matters after the eviction moratorium expires. OJD has presented to both the Senate and House Judiciary Committees on the challenges to our justice system. A link to the House presentation and additional materials is available [here](#).

a. LC 84, Section 6 Provides Courts the Authority to Place Safety and Public Welfare at the Fore

The Omnibus Bill, LC 84, Section 6 (also LC 45, Section 14) addresses the statutory barriers the courts currently face in balancing rights and safety during the pandemic. Unlike court systems in other states, the Chief Justice and judges across the state are without the ability to suspend mandatory timelines affecting court proceedings, filings, and appearances. In many other states, such changes can be made by court rules or orders.

Section 6 is a product of three months of drafting, review, and editing between the Oregon Judicial Department, Judiciary Committee counsel, Legislative Counsel and key stakeholders including the Oregon Criminal Defense Lawyers Association, the Oregon District Attorneys Association, the Attorney General's office, and leaders of the civil and criminal bars of Oregon who all came to consensus on the bill language. Section 6 would accomplish the following:

- **Grants authority to the Chief Justice to suspend or extend certain mandatory timelines in civil and criminal cases so that the health, safety and the rights of the parties and the public can be preserved;**
- **Allows for the date of first appearance on a criminal citation to exceed 30 days and permits the Presiding Judge of a Circuit Court to extend the date of first appearance;**
- **Provides for good-cause extensions of the date set for jury trial of individuals who are in custody where public health circumstances require the extension and where release of the defendant would present risk of harm to the public or to the victim; and**
- **Clarifies that the Chief Justice has authority to direct remote or electronic appearances in all court proceedings, with a right of a party to request an in-person hearing.**

Nothing in this legislation would in any way limit rights afforded under the U.S. and Oregon Constitutions. The good-cause extension for trial of defendants who are held in custody was crafted in response to a request for additional guardrails from legislative members and was a product of a consensus-based work group. This provision **does not authorize indefinite detention** – which is prohibited under constitutional provisions. Instead it gives courts the tools to assess dangerousness of a person in custody and the public health risks to the community.

The Chief Justice understands the significance of these requests. The Chief Justice may not need to enter an order suspending or extending deadlines in all cases or case types as much has been and will be accomplished through remote hearings, written submissions, and electronic filings. Yet

the future is uncertain and as the backlog continues to grow, we must have the opportunity to nimbly and effectively respond to emergent circumstances. Permitting the Chief Justice to craft an order suspending and extending deadlines will allow those most familiar with court proceedings to sort out these kinds of issues and balance public need and public health for court proceedings to the extent permitted by constitutional and other public safety considerations.

2. Oregon's Court Responses to the Pandemic to Date

We also would like to update you on the actions we are taking to ensure that we can continue to provide needed justice services, while adhering to public health guidelines. On Monday, March 16, Chief Justice Order 20-006 was issued to reduce court activities to essential, minimum levels. Subsequent Chief Justice Orders (CJOs) were issued as courts began to reopen and expand services, consistent with the Governor's phased-in process. Information regarding current court services can be found on the individual circuit or appellate court's website and at our statewide COVID-19 site [here](#).

These CJOs have significantly reduced the number of people coming into our courthouses and reduced large-group gatherings at criminal arraignments, as well as traffic court, landlord-tenant, and other high-volume dockets, while allowing for expanded remote participation. We are prioritizing cases that affect fundamental rights, public safety, and family and child welfare. Circuit and appellate courts have responded promptly to the CJOs and have implemented immediate changes to operations to slow the spread of the virus and to keep court users, staff, and judges safe. We are using technology where available, have launched new remote-hearing technology, and are requiring that in-person appearances adhere to social distancing requirements, and are cleaning courtroom spaces.

To examine changes to these CJOs, the Chief Justice has established OJD and Oregon State Bar collaborative work groups. These work groups will make recommendations to OJD on changes to the CJOs, consistent with justice system needs and community health advisements.

We understand that the proposed legislation is extraordinary, but we seek it to respond to extraordinary times. The Chief Justice, our judges and staff remain committed to listening and responding to how these measures are impacting your community. We welcome feedback through circuit court leadership and to our management teams at cjofeedback@oid.state.or.us.

Thank you for all the work you are doing to serve and safeguard Oregonians.

Sincerely,



Nancy J. Cozine
State Court Administrator

MARTHA L. WALTERS
Chief Justice



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March 21, 2020

Re: COVID-19 and Oregon's Justice System

Dear Chair Prozanski, Vice-Chair Sanchez, Vice-Chair Sprenger, Members of the Senate and House Interim Judiciary Committees, President Courtney, and Speaker Kotek,

The Oregon Judicial Department (OJD) must continue to provide essential court services during this pandemic, but we also must limit those services and protect the health of those who use and provide them. To do that, we need your help. We have taken a number of steps to curtail and postpone court proceedings, but we need additional statutory authorization to take additional measures. What follows is a description of the legislation that we seek and a summary of actions we have taken and will continue to take, pursuant to our existing authority.

1. Oregon's Judicial Branch Seeks Legislation Granting the Chief Justice the Ability to Extend or Suspend Certain Mandatory Timelines

Oregon's judicial branch seeks statutory authority for the Chief Justice to extend or suspend certain statutory timelines as needed to address this public health emergency. This authority would extend to both criminal and noncriminal (civil) timelines after case initiation and could be exercised only when the Governor declares a state of emergency.

Though courts have existing statutory discretion to extend some deadlines, many statutes require a judge, clerk, or litigant to act on a strict time frame without judicial authority to suspend or extend those deadlines. Other statutes currently require in-person appearances. We are requesting Chief Justice authority to suspend or extend such deadlines and requirements for in-person appearances.

Oregon's courts are poised to immediately and appropriately address these timelines in a manner that is fair and impartial, honors the rights of individuals, and respects the safety and health of litigants, lawyers, and the public. We have provided additional detail about several timelines below.

a. Particular Considerations in Criminal Cases

In criminal cases, defendants who are held in custody pending trial have "speedy trial" rights. Those rights are grounded in both the constitution and Oregon statutes. *See* ORS 136.290 (60-day limit in custody) and ORS 136.295 (good-cause extensions provided up to 180 days). As you will see outlined below, the current Chief Justice order postpones all trials, *except* for trials in which defendants may have a right to a speedy trial. Neither the Chief Justice nor the judges in our circuit courts currently have authority to postpone such trials beyond the statutory deadlines. At a time when jurors, witnesses, and

attorneys are being told to stay home, our laws require them to come to court. We must, to the greatest extent possible, limit the number of jury trials happening in our courts and focus on enforcing critical social distancing measures when they must occur.

Courts are faced with similar uncertainty regarding limitations on preliminary hearings and the requirements of indictments issued by grand juries in felony matters -- requiring gathering members of the public -- and the statute that requires a court appearance within 30 days for individuals cited in lieu of arrest, a practice we anticipate will increase given current concerns regarding the potential for COVID-19 to appear in jails. *See* ORS 135.070; ORS 133.060.

To address those concerns, we are asking that you enact legislation giving the Chief Justice authority to extend deadlines in such criminal cases. We will provide you with draft legislation granting that authority as soon as possible, at least by the end of this weekend.

b. The Chief Justice Should Be Granted Authority to Delay Certain Noncriminal (Civil) Deadlines to Protect Rights and Ensure Future Relief

There are numerous statutory deadlines imposed in noncriminal cases that neither the Chief Justice nor the judges in our circuit courts are authorized to postpone, extend, or suspend. Under the current states of emergency, neither parties nor the courts may be able to comply with those deadlines. Parties will have a hard time finding lawyers, lawyers will have a hard time working without staff, and our courts have been reduced to skeleton crews. We are asking that you enact legislation granting the Chief Justice authority to extend or suspend the deadlines that apply to noncriminal cases after they are initiated in our courts. **We are not asking, however, for legislation granting the Chief Justice authority to extend statutes of limitations, statutes of ultimate repose, or other deadlines for filing claims in our courts.** We do not oppose legislative action to allow such suspensions and believe those decisions are best addressed by a different branch of government.

With respect to the deadlines that apply once a case is filed in our courts, it may appear, at first blush, that the legislature should simply pass legislation suspending *all* timelines and postponing all in-person appearances in civil cases or giving the Governor authority to do so. We question whether that would be advisable. We think there are instances in which Oregonians may have a legal right to seek a court order and, if a court is to issue an order, notice would have to be given and hearings of some type would have to be held. Proceedings of that sort require deadlines of some kind. Given the need for immediate legislative action, the best course, we believe, is to give the Chief Justice authority to suspend and extend statutory timelines for cases that already have been filed or that are filed during the period of this crisis.

We have conferred with the lawyers who have drafted broader legislation on this topic, and we believe that they understand that we cannot completely shut down the courts or put the work of our courts on pause. We are working with them to compose a Chief Justice order that would permit our courts to provide essential services while postponing all nonessential trials, hearings, and deadlines.

As an example of the type of claim that may need to proceed, consider an individual's application for a restraining order to protect against an alleged abuser. If the opposing party did not have to respond to the application because the timelines were suspended, then the court could not schedule a hearing on the

request, and the harm could well occur. Consider too a plaintiff's claim that the government is acting in violation of the plaintiff's constitutional rights. If a defendant does not have to respond to such a claim because the deadline to respond has been suspended by a blanket order, a court could not schedule a hearing on a request for a temporary restraining order. As a result, the plaintiff's constitutional rights could not be litigated. While we all expect that government will not overstep, the courts exist to assure the people that their rights can be vindicated. We cannot leave the people with the streets as their only recourse.

Permitting the Chief Justice to craft an order suspending and extending deadlines with good cause exceptions will allow those most familiar with court proceedings to sort out these kinds of issues and pause court proceedings to the extent permitted by constitutional and other public safety considerations.

We will provide you with draft legislation and a draft Chief Justice order exercising the proposed authority as soon as possible, at least by the end of this weekend.

2. Oregon's Court Responses to the Pandemic to Date

We also would like to update you on the actions we are taking to ensure that we can continue to provide needed justice services, while adhering to public health guidelines. On Monday, March 16, Chief Justice Order 20-006 (CJO) was issued to reduce court activities to essential, minimum levels. A copy of that CJO is attached.

The March 16 CJO has significantly reduced the number of people coming into our courthouses and reduced large-group gatherings at criminal arraignments, as well as traffic court, landlord-tenant, and other high-volume dockets. Circuit and appellate courts have responded promptly to the CJO and have implemented immediate changes to operations to slow the spread of the virus and to keep court users, staff, and judges safe. We are using technology where available and requiring that in-person appearances adhere to appropriate social distancing.

To examine possible additional restrictions and changes to the CJO, we have established OJD and Oregon State Bar collaborative work groups. These work groups will make recommendations to OJD on changes to be made to the CJO, consistent with justice system needs and community health advisements.

Thank you for all the work you are doing to safeguard Oregonians.

Sincerely,

/s Martha L. Walters, Chief Justice

/s Nancy J. Cozine, State Court Administrator

Enclosure: Chief Justice Order 20-006

Cc: Senator Arnie Roblan, Co-Chair of the Joint Special Committee on Coronavirus Response; Representative Paul Holvey, Co-Chair of the Joint Special Committee on the Coronavirus Response; Governor Kate Brown; Attorney General Ellen Rosenblum; Helen Herschbiel, Oregon State Bar

In the Matter of Imposing “Level 3”)	CHIEF JUSTICE ORDER
Restrictions on Court Operations)	No. 20-006
)	
)	ORDER IMPOSING “LEVEL 3”
)	RESTRICTIONS ON COURT
)	OPERATIONS

The conditions and impact that result from the spread of the COVID-19 virus are changing rapidly. In accordance with Governor Kate Brown’s emergency declaration and the current thinking of those in the public health community, and in consultation with our OJD Advisory Committee, I am directing institution of **Level Three** restrictions on operations, through at least March 27, 2020. All courts must take steps to ensure that these restrictions are in place no later than the beginning of business on Thursday, March 19, 2020. These restrictions may be extended beyond March 27, and further restrictions may be implemented. On the other hand, we may be able to increase our operations through the use of technology.

For now, we are requiring that the Oregon circuit courts, the appellate courts, the Tax Court, and the State Court Administrator’s Office and its Divisions comply with these Level 3 restrictions to significantly limit the number of persons in our courthouses and places of work. Our goal is to do our part to help slow the spread of the COVID-19 virus and to minimize any health risks to court personnel, litigants, representatives, and others who come to our courthouses, while meeting our courts’ obligations to the public.

This is a dynamic situation and things are changing very quickly. I encourage all Presiding Judges, Trial Court Administrators, Division Directors, and the State Court Administrator to thank everyone – staff and community – for their patience; to let everyone know that Oregon’s courts are doing their best to serve the public and protect their communities; and to convey the message that courts will continue to evaluate and adjust as the situation develops. And, as Chief Justice, I thank all OJD judges and staff for their continued diligence, commitment, and care. As my dad would say, you have been GREAT!

ORS 1.002 provides that 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 the Oregon Rules of Civil Procedure; 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.

I HEREBY ORDER, pursuant to ORS 1.002, that the following “Level 3” restrictions on court operations must be in effect no later than the beginning of business on Thursday, March 19, 2020, and will be in effect through Friday, March 27, 2020, unless further extended:

1. Definitions. As used in this order:
 - a. “Social distancing” means at least 3 feet between each participant.
 - b. “High risk” means the category of persons whom the Centers for Disease Control has identified as being at high-risk for serious illness due to COVID-19:
 - (1) Persons 60 and older;

- (2) Persons with underlying health conditions including heart disease, lung disease, or diabetes;
- (3) Persons with weakened immune systems; and
- (4) Persons who are pregnant.

2. Jury Trials

- a. This subparagraph applies to jury trials other than jury trials for defendants who are in custody on criminal charges that provide them with a statutory or constitutional right to a speedy trial. All such jury trials scheduled to begin during the period of these Level 3 restrictions shall be postponed, with no motion to that effect needed. No new jury trials shall be scheduled during that period.
- b. This subparagraph applies to jury trials for defendants who are in custody on criminal charges that provide them with a statutory or constitutional right to a jury trial, where such rights have not been voluntarily waived. 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. Courts may complete jury trials that have commenced and that can be completed before the beginning of business on Thursday, March 19.

3. Forcible Entry and Detainer Proceedings

- a. All first appearances under ORS 105.137(1) and (2) shall be postponed 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, all parties shall appear at such first appearances in person on the date set.
- b. All trials under ORS 105.137(6) 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

Courts shall postpone and not schedule any other in-person hearings or trials during the period of these Level 3 restrictions, except in the following circumstances:

- a. In-custody arraignments, in-custody probable cause hearings, in-custody probation violation hearings, and in-custody plea hearings;
- b. Grand jury proceedings or preliminary hearings for felony indictments;
- c. Case scheduling or docket management hearings;
- d. Civil Commitment hearings;
- e. In Juvenile proceedings:
 - (1) Protective Custody Order applications;
 - (2) Shelter hearings;

- (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) Motion for Expedited 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 Order hearings; and
 - (5) In-custody Violation of Restraining Order trials;
 - g. In Probate proceedings, temporary guardianship or conservatorship *ex parte* motions;
 - h. Treatment court proceedings, but only if the Presiding Judge determines that those proceedings are necessary and can be conducted by observing social distancing; and
 - i. Other circumstances in which a Presiding Judge determines that a postponement or failure to schedule would violate a statutory or constitutional right.
5. All Other Direct Court Services
- a. Each court shall determine the in-person court services that the court is legally required to provide, and each court must continue to provide those services.
 - b. Courts shall not provide any other in-person services.
 - c. Courts shall answer their phones during their established business hours.
 - d. Courts shall consider their abilities to provide services remotely or telephonically.
 - e. As needed, a Presiding Judge or designee may direct that a court's legally required in-person services be provided for limited hours with limited staff. All in-person services must be provided observing social distancing.
 - f. If a person seeking in-person services exhibits symptoms associated with COVID-19, the court may refuse service to the person and direct the person to leave the courthouse.
6. Presiding Judge Authority
- a. Each Presiding Judge has discretion to order that a particular trial, hearing, or other court operation will take place if the assigned judge, after consulting with the parties and other affected persons, 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 the participants, including court staff.

- b. Each Presiding Judge shall have authority to 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
- b. Maintain vigilance about cleaning in accordance with other OJD guidelines.

8. Expectations for Lawyers

When in-person trials or hearings are held, attorneys are expected to appear in-person, unless the attorney is excused, or the court has adopted a procedure that allows attorneys to appear remotely or telephonically. An attorney who has concerns about appearing in-person due to COVID-19 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 staff must be assigned to work from home, or otherwise directed not to come into the courthouse to work, unless the Administrative Authority directs that they be at work to provide court services in accordance with these Level 3 restrictions. The Administrative Authority or designee should avoid directing persons in high-risk categories, or those with good cause, to report to the court for work.

10. Public Safety and Community

- a. Courts must work with the Criminal Justice Advisory Committee, their 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. Courts must explore alternatives to current arrest and detention policies including use of cite-in-lieu of arrest where appropriate to keep jail population at a minimum.
- c. Courts must work with attorneys and their local bar associations 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, State Court Administrator, or designee. 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. Appellate Courts, Tax Court, and OJD Divisions

- a. The Level 3 restrictions described in paragraphs 1 through 11 apply, to the extent practicable, to the Supreme Court, the Court of Appeals, the Tax Court, and except as described in subparagraph b. below, to the Office of the State Court Administrator (OSCA) and the Divisions within that Office. To the extent that those courts, OSCA, or any divisions are able to continue to conduct their operations using remote services, they should do so.
- b. The Citizen Review Board (CRB), in keeping with paragraph 4 of this order, shall postpone and not schedule any CRB reviews during the period of these Level 3 restrictions.

13. Notice and Communication

Presiding Judges, Trial Court Administrators, and the State Court Administrator and designees must work together to:

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

14. These Level 3 restrictions are to be in effect no later than the beginning of business on Thursday, March 19, 2020. They will continue to at least March 27, 2020. They may be extended by further order, or they may be amended by further order.

15. This order takes effect immediately.

Dated this 16th day of March, 2020.



Martha L. Walters
Chief Justice