In the Matter of Imposing In-Person Restrictions on Court Operations During Statewide "Freeze"	)))))))	CHIEF JUSTICE ORDER No. 20-047 ORDER IMPOSING IN-PERSON RESTRICTIONS ON COURT OPERATIONS DURING STATEWIDE "FREEZE"

I HEREBY FIND THAT:

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 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(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.

3. As described in Chief Justice Order (CJO) 20-016 and CJO 20-045, Governor Kate Brown has declared a state of emergency and has signed a series of executive orders because of the threat that the COVID-19 coronavirus posed to public health and safety (hereafter, "COVID-19 state of emergency"). The Oregon Health Authority has issued Guidance pursuant to those orders that sets out other requirements pertaining to the COVID-19 state of emergency.

4. On March 27, 2020, I issued Amended CJO 20-006, which imposed amended Level 3 restrictions on operations due to the COVID-19 state of emergency and the spread of the virus. On May 15, 2020, I issued CJO 20-016, which imposed updated Level 3 restrictions, as well as Level 2 restrictions, on court operations.

5. On October 28, 2020, I issued Chief Justice Order 20-045, which requires the wearing of protective face coverings in court facilities, with only limited exceptions.

6. On November 17, 2020, the Governor issued Executive Order 20-065, which imposes a statewide "freeze" with additional restrictions on Oregonians, beginning November 18, 2020, and continuing through at least December 2, 2020.

I HEREBY ORDER, pursuant to the foregoing authority, that the following in-person restrictions on operations take effect on November 19, 2020, and remain in effect as set out in this order:

1. Remote Means

A circuit court, an appellate court, the Oregon Tax Court, or the Citizen Review Board may conduct any legal proceedings as long as it does so entirely by remote means and as long as remote means are permitted by law, including any Chief Justice Order.

2. In-Person Proceedings

a. A circuit court, an appellate court, the Oregon Tax Court, or the Citizen Review Board may not conduct proceedings that permit or require an in-person appearance by any person other than judges or court staff, except for those proceedings described in this paragraph and paragraph 3. Even when in-person appearance is permitted by this order, courts are encouraged to hold the described proceedings entirely by remote means if reasonably feasible and permitted by law, including any Chief Justice Order.

b. Trials in criminal cases that may be held in person

(1) Trials for criminal defendants who are subject to ORS 135.746, ORS 136.290, or ORS 136.295, or who have constitutional rights to a speedy trial, where the defendant's statutory or constitutional rights have not been voluntarily waived, including for defendants who have opted for bench trials; and

(2) Other jury trials in criminal cases, but only pursuant to paragraph 3.

c. Other proceedings that may be held in person

(1) Juvenile delinquency adjudications; and

(2) Category 1 and Category 2 proceedings, as defined in paragraph 7.

3. A Presiding Judge has discretion, on a case-by-case basis, to permit any in-person appearance in any particular trial or proceeding not described in subparagraph 2.b. or 2.c. upon a determination, after consulting with the parties and other affected persons, that the trial or proceeding cannot feasibly be held entirely by remote means, that it is important that the trial or proceeding not be postponed, that the trial or proceeding can be held without significant risk to health, and that the requirements set out in paragraph 4 can be met.

4. Any trial or proceeding that includes an in-person appearance must comply with all requirements for courthouse proceedings set out in CJO 20-016 and CJO 20-045, including compliance with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, wearing protective face coverings, vigilant cleaning, and any other reasonable precautions to protect the health of all participants, including victims, interpreters, and court staff.

5. Oregon courts are required to be open to the public. This order does not preclude the public from observing court proceedings, including by remote means.

6. Definitions

As used in this order:

a. "Remote means" means making a court appearance or conducting a trial, proceeding, hearing, or other gathering by telephone, video, other two-way electronic communication device, or simultaneous electronic transmission, including from a location that is in the courthouse, but outside the courtroom. "Entirely by remote means" means that all participants except the judge and court staff are required to participate by remote means.

b. "Social distancing" means the minimum amount of physical distance between each person. The distance shall be determined by the social distancing requirements specified in the applicable Executive Order issued by the Governor, Guidance issued pursuant to such an order, or Guidance from the Centers for Disease Control and Prevention. As of the date of this order, the distance is 6 feet between each person. When this order imposes social distancing requirements, members of the same household, and others if permitted by the Presiding Judge, are excepted from those requirements.

7. Categories of Proceedings – Circuit Courts

For purposes of this order, circuit court proceedings are categorized as follows:

a. Category 1 proceedings

(1) The following criminal proceedings, whether or not the defendant is in custody: arraignments, probable cause hearings, release hearings, probation violation hearings, plea hearings, sentencing hearings, aid-and-assist hearings, and any other hearing that will directly lead to the release of the defendant or the resolution of the case;

(2) Grand jury proceedings or preliminary hearings for felony indictments; and

(3) Civil commitment hearings.

b. Category 2 proceedings

(1) In criminal proceedings:

Case management and docket hearings, whether or not the defendant is in custody.

(2) In civil proceedings:

When no applicable moratorium precludes them, first appearance hearings in Forcible Entry and Detainer (FED) proceedings.

(3) In family and protective order proceedings:

(A) Hearings on immediate danger motions;

(B) Hearings on applications for orders of assistance to obtain custody of a child held in violation of a custody order;

(C) Hearings on protective order applications, motions, and renewals (Family Abuse Prevention Act (ORS 107.700-107.735), Elderly Persons and Persons with Disabilities Abuse Prevention Act (ORS chapter 124), Sexual Abuse Protection Orders (ORS 163.760-163.777), Extreme Risk Protection Orders (ORS 166.525-166.543), Emergency Protection Orders (ORS 133.035), and stalking orders (ORS 30.866; ORS 163.744)); and

(D) Hearings on contested protective orders, including exceptional circumstances hearings;

(4) In juvenile dependency proceedings:

(A) Protective custody order applications;

(B) Shelter hearings;

(C) Jurisdiction and disposition hearings and trials;

(D) Hearings on a parent's objection to the child's continued placement in substitute care; and

(E) Hearings on motions to dismiss;

(5) In juvenile delinquency proceedings:

(A) Delinquency in-custody initial appearances;

(B) For in-custody youth,10-day detention review hearings and 28/56-day detention duration hearings; and

(C) Waiver hearings under ORS 419C.349.

(6) In probate proceedings, temporary guardianships or conservatorships;

(7) Specialty Court proceedings;

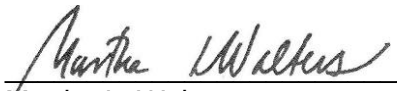
(8) Proceedings involving isolation or quarantine under ORS 433.123 and ORS 433.133, or isolation of contaminated property under ORS 433.142; and

(9) Habeas corpus proceedings under ORS 34.370, including any trial held on such a petition.

8. While this order is in effect, it supersedes any conflicting provision of CJO 20-016. Any provision of CJO 20-016 that does not conflict with this order remains in effect.

9. This order becomes effective on November 19, 2020, and remains in effect through at least December 4, 2020, but will not terminate until further Chief Justice Order.

Dated this 18th day of November, 2020.



Martha L. Walters
Chief Justice