Chief Justice Order Restricts Court Hearings and Operations

March 16, 2020

Chief Justice Martha L. Walters today imposed significant additional restrictions on court trials, hearings and court operations to limit the number of people coming into Oregon courtrooms and courthouses. These strict restrictions will help slow the spread of the COVID-19 virus and minimize health risks to those who work or enter our courthouses. The restrictions will be in place until at least Friday, March 27, and may be extended or revised as circumstances warrant.

"The nature of this public health emergency has led me to order the postponement of most trials and court hearings," Walter said. "The guidelines that were issued just last Friday no longer reflect the recommendations from the Centers on Disease Control and changing circumstances here in Oregon. We will do our best to provide people their day in court when we can safely do so, and we will pursue options for continuing our work without requiring in-person appearances, but, at the present time, limiting the number of people coming into our courtrooms and courthouses is paramount."

Today's Chief Justice Order:

- Postpones, with limited exceptions, jury trials and other trials and hearings scheduled to start between Thursday, March 19 and Friday, March 27. Some courts will implement the postponements as early as tomorrow. Jury trials that can be completed before March 19 will continue.
- The limited exceptions include proceedings involving people in jail with a legal right to a speedy trial, civil commitment hearings, and certain protective order, family law, guardianship, and treatment court proceedings.
- Bans in-state and out-of-state work-related travel and bans internal meetings of five or more people. Larger meetings will be conducted remotely or rescheduled.
- Presiding judges in each county will decide which judges and court staff need to work at the courthouse or remotely from home.
- Presiding judges in each county will work with the public safety community to ensure that they consider how best to address health issues of those who are incarcerated and how to keep jail populations at a minimum.

Trial courts throughout Oregon already are postponing trials and reducing the number of people summoned as jurors.

The Oregon Court of Appeals has cancelled oral arguments scheduled between March 17 and March 27.

During the time these restrictions are in effect, the courts will continue to consider how they can meet the needs of Oregonians while doing their part to preserve and protect their health.

In the Matter of Imposing "Level 3" Restrictions on Court Operations	))))))	CHIEF JUSTICE ORDER 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