

**FILED
SUPERIOR COURT**

DATE: 5-1-2020

COWLITZ COUNTY

STACI MYKLEBUST

BY: _____

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF COWLITZ

IN RE THE MATTER OF THE RESPONSE
BY COWLITZ COUNTY SUPERIOR
COURT TO THE PUBLIC HEALTH
EMERGENCY IN COWLITZ COUNTY
AND THE STATE OF WASHINGTON

No.:

EMERGENCY ORDER No. 2-A
RE: COURT OPERATIONS
(Amending and Superseding Emergency
Orders No. 3 and 1-A)

FINDINGS OF FACT BASED UPON THE PUBLIC RECORD

On May 1, 2020, Governor Jay Inslee declared a continuing state of emergency due to the public health emergency posed by the coronavirus 2019 (COVID-19), and will continue the "Stay Home, Stay Healthy" order through May 31, 2020. [This order of the Governor of the State of Washington, to be dated May 4, 2020, extending the prior order to May 31, 2020, is incorporated herein by reference.]

WHEREAS, the basis for the Emergency Order No. 1-A still exists and the CDC has continued to recommend stringent social distancing, avoiding public places, clean and disinfect frequently, as well as vulnerable populations to stay home;

WHEREAS, Cowlitz County currently has at least 41 confirmed cases of COVID-19;

WHEREAS, like many courts, we serve a vulnerable population of people. In addition, whether people come to the court as a party, witness, juror, legal counsel, or as court personnel, the courtrooms are compact, jury rooms are small, jury pools can only be maintained in a small area, there are limited restrooms, and seating is compact;

THEREFORE, based on the above, the significant number of individuals at risk of contracting COVID-19 in Cowlitz County and the severity of risk posed to the public, court personnel and litigants; the significant limitations of our courts to comply with recommendations of the CDC, Washington State Health Department and the Cowlitz County Health Department; and given the recommendations from these departments:

It is hereby ORDERED, after finding good cause and pursuant to the authority of the Washington State Supreme Court Orders in response to the COVID-19 public health emergency, and the authority as Presiding Judge of Cowlitz County Superior Court, as follows:

1. CRIMINAL AND CIVIL JURY AND BENCH TRIALS.

a. All jury summons are suspended until July 13, 2020. The jury personnel for Cowlitz County Superior Court shall call off summoned jurors immediately.

b. All criminal trials are stricken and CONTINUED until at least the week of July 13, 2020. However, criminal bench trials may be set prior to July 13, 2020, if the Court deems the bench trial can occur safely, in consideration of the recommendations of the CDC and Cowlitz County Health Department. A new trial date will be assigned May 18, 2020, or thereafter.

c. CIVIL JURY TRIALS. All civil jury trials are stricken through July 10, 2020. The party shall renote the matter for a new date on the Trial Scheduling docket on May 20, 2020 at 1:45 pm. or thereafter.

d. CIVIL BENCH TRIALS. All civil bench trials are stricken until June 1, 2020. The party shall renote the matter for a new date on the Trial Scheduling docket on May 18, 2020 at 1:00 p.m. or thereafter for domestic cases, and May 20, 2020 at 1:45 p.m., or thereafter for civil cases.

e. These trials and other matters are continued due to the Orders of the Supreme Court, the serious danger posed by the virus, which is an unavoidable circumstance, reduced ability to obtain an adequate spectrum of jurors and the effect of the above public health recommendations on the availability of counsel and Court staff to be present in the courtroom. The time period of the continuances by this Emergency Order will be excluded in computing time for a criminal trial pursuant to CrR 3.3(e)(3) and CrR 3.3(f)(2), and related local rules. The Court further finds that the ends of justice served by continuing these cases outweighs the defendant's right to a speedy trial. The Court further finds that any delays for time for trial are the result of the unavoidable and unforeseen circumstances and are therefore excluded from computing time for trial by CrR3.3(e)(8). Furthermore, the Court SUSPENDS CrR 3.3 and JuCR 7.8 regarding time for trial and CrR 3.4 and related local court rules requiring the presence of the defendant, effective March 20, 2020 to at least July 18, 2020, or as determined by further court order.

2. ALL OTHER CRIMINAL DOCKETS. All other criminal cases and dockets shall be handled as follows:

a. All other out of custody criminal matters shall be continued until May 18, 2020, or as determined by further court order.

b. All in custody criminal matters shall be handled as follows:

All in custody criminal matters shall be continued until May 18, 2020, or as determined by further court order, with the following exceptions: Scheduling and hearing of first appearances, arraignments, plea and sentencing hearings with a release expected within 30 days, as well as criminal motions. The current Cowlitz County Superior Court adult criminal dockets shall be temporarily modified, so all first appearances will occur at the currently set First Appearance docket, and all remaining matters set for that day will

be considered by the Court after completion of the First Appearances. The Court will be setting all in-custody arraignments on Thursdays and all in-custody pleas on Tuesdays. The priority of the types of hearings is as set forth in the Orders of the Supreme Court.

c. All drug court and mental health court hearings will resume virtually the week of May 4, 2020.

3. ALL DOMESTIC DOCKETS. The family law cases and dockets will be handled as follows:

a. All emergency domestic motions shall remain as currently, or subsequently set. The assigned judge shall review the domestic dockets through May 15, 2020 in advance and, if he/she determines the motion is not an emergency, it will be stricken and the party will need to renote it for a date on or after June 1, 2020. The assigned judge will then decide the remaining matters based solely on the documents filed with the court. The assigned judge will then issue a written ruling and convey that decision by email to the attorney(s) if represented, or to the party. Further, the Court will issue automatic temporary orders in newly filed cases within the last two weeks, until further notice. The temporary order to be issued is set forth in Attachment A. All non-emergency domestic motions shall be stricken and must be renoted by the requesting party on or after June 1, 2020.

b. All mandatory settlement conferences will be cancelled through May 15, 2020, and the party will need to reset such on a domestic trial assignment docket set May 18, 2020, or thereafter. Mandatory settlement conferences may occur by court approved electronic means.

c. All final decree hearings are stricken and will need to be renoted on a docket by the requesting party on or after June 1, 2020.

4. ALL OTHER CIVIL LAW DOCKETS. The remaining civil law cases and dockets shall be handled as follows:

a. Guardianships:

i. All emergency guardianship motions shall remain as currently, or subsequently set. The assigned judge shall review the guardianship docket in advance and, if he/she determines the motion is not an emergency, it will be stricken and the party will need to refile it for a date after June 1, 2020. The assigned judge will then decide the remaining matters based solely on the documents filed with the court. The assigned judge will then issue a written ruling and convey that decision by email to the attorney(s) if represented, or to the party.

ii. On a case by case basis, longer continuances will be permitted to address barriers to accessibility and health and safety issues for Guardians ad Litem and Medical Providers in interviewing and evaluating Alleged Incapacitated Persons.

iii. In anticipation of barriers accessing Alleged Incapacitated Persons, particularly those considered vulnerable to COVID-19 and those residing in care facilities, Guardian ad Litem and other parties may note Petition for Instructions or other motion(s) to approve alternative to in-person interviews on shortened time without prior entry of an Order Shortening Time.

iv. For the immediate future (until further order of the Court), and while the public health crisis is ongoing, all Petitions for Appointment of Guardian ad Litem should be submitted Ex Parte, as set forth herein.

b. Probates. Effective immediately, all eligible Petition for Appointment of Personal Representative or Administrator and Bonds must be presented Ex Parte via the Clerk. Walk-in/In Person presentation is no longer permitted. For those matters which require notice or otherwise are ineligible for submission Ex Parte, via the Clerk, the moving party shall note the matter for hearing. Parties must continue to submit original Wills as required pursuant to Chapter 11.20 RCW.

c. Adoption. All adoptions shall be heard virtually in accordance with the following process:

Seven days in advance of the hearing, the Note for hearing, any required check for certified copies, all the required forms and final pleadings, shall be provided to the Cowlitz County Superior Court Clerk's Office. A pre-stamped envelope shall also be provided for the Clerks to mail certified documents to the Petitioner/s following the hearing, if applicable. Once these steps have been followed, then the party shall be provided the virtual hearing information.

d. All Other Civil Hearings. All other civil motions not addressed above, including, but not limited to Receivership and Minor Settlements, but not Unlawful Detainers, shall be noted and presented on the pleadings only for consideration by the Court. All in-person hearings on these calendars are suspended. Unlawful Detainers shall be suspended until further order of this Court.

5. ALL MENTAL HEALTH HEARINGS AT PEACE HEALTH. The mental health hearings held at Peace Health, St. John, shall continue in accordance with Emergency Order #3, until further Court order. These hearings are subject to the protocols of St. Johns Hospital.

6. DEPENDENCY DOCKETS. The Dependency dockets (which, for all purposes herein, includes termination cases) at the Youth Services Center, shall be handled as follows:

a. All hearings, except fact findings, shall remain as currently scheduled, or as subsequently scheduled, but only heard through electronic communication approved by the Court.

c. Any matters that can be agreed upon by the parties, and signed off by the parties, can be submitted to the Juvenile Court Judge for review and signature.

d. All fact findings shall be reset to an available court date on or after June 1, 2020; however, if the parties have agreed orders, those orders can be signed off by the parties and submitted to the Juvenile Court Judge for review and signature.

e. All HOPE Court dockets will resume virtually the week of May 4, 2020.

7. TRUANCY DOCKETS. The Truancy dockets at the Youth Services Center, shall be handled as follows:

a. All dockets and fact findings shall be cancelled until September 3, 2020. The applicable school can work with the Juvenile Court Clerk handling truancy cases, to determine new court dates so long as an extension of jurisdiction is filed by the applicable school for the 2020-2021 school year.

b. If a youth or parent appears on a warrant already issued by the Court, then the warrant will be quashed and a new court date shall be issued during the 2020-2021 school year, so long as the applicable school files an extension of jurisdiction to the 2020-2021 school year.

8. JUVENILE CRIMINAL DOCKETS AND FACT FINDINGS. The juvenile criminal dockets and fact findings shall be handled as follows:

a. All out of custody juvenile criminal matters shall be continued until after June 1, 2020, except first appearances and arraignments if such hearings can be heard virtually.

b. All juvenile in custody criminal matters shall be handled as follows:

i. All in custody criminal matters shall be continued until June 1, 2020, or thereafter with the following exceptions: Scheduling and hearing of first appearances, arraignments, plea hearings, juvenile criminal motions and sentencing hearings. The priority of the types of hearings is as set forth in the Orders of the Supreme Court.

c. All SAFE Court and ITC hearings will resume virtually the week of May 4, 2020.

d. Video appearance of Respondents in juvenile detention will be used for court appearances, when possible.

e. These fact findings (trials) and other matters are continued due to the serious danger posed by the virus, which is an unavoidable circumstance, reduced ability to obtain an adequate spectrum of jurors and the effect of the above public health recommendations on the availability of counsel and Court staff to be present in the courtroom. The time period of the continuances by this Emergency Order will be excluded in computing time for a criminal trial pursuant to CrR 3.3(e)(3) and CrR 3.3(f)(2), and related local rules. The Court further finds that the ends of justice served by continuing these cases outweighs the respondent's right to a speedy trial. The Court further finds

that any delays for time for trial are the result of the unavoidable and unforeseen circumstances and are therefore excluded from computing time for trial by CrR3.3(e)(8). Furthermore, the Court SUSPENDS CrR 3.3 and JuCR 7.8 regarding time for trial and CrR 3.4 and related local court rules requiring the presence of the respondent, effective March 20, 2020 to at least May 18, 2020, or as determined by further court order.

f. Juvenile court jurisdiction in all pending offender proceedings and in all cases in which an information is filed with the juvenile court prior to June 1, 2020, in which the offender will reach the age of 18 within 120 days of May 4, 2020, shall be extended to the respondent's next scheduled juvenile court hearing in which the respondent is required to appear in person.

9. JUVENILE AT RISK YOUTH. All At-Risk-Youth (ARY) cases shall be handled as follows:

a. All non-emergency ARY shall be stricken by the assigned judge and renoted by the requesting party, to a court date after June 1, 2020. Any emergency motion can remain as currently scheduled, but shall be determined solely based on the documents filed with the court. The assigned judge will issue a written ruling that will be emailed to the attorney(s) if the party is represented, or to the party.

b. All ARY fact findings set before June 1, 2020 shall be cancelled and reset to a regular ARY docket for rescheduling of the fact finding date. The court clerk that handles the ARY docket will advise the parties of the new docket date.

c. If a Respondent appears on a warrant, then the warrant will be quashed and a new court date shall be issued by the court clerks.

d. A Petition for ARY can be filed with the Juvenile Court, however any hearings shall be through electronic means approved by the Court.

10. CHILD IN NEED OF SERVICES (CHINS). All CHINS cases shall be handled in the same manner as the dependency cases.

11. EX PARTE DOCKETS. All Ex Parte dockets are cancelled until further notice. The Ex Parte documents to be considered by the Court will be left with the Superior Court

Clerk's Office. The Clerk will then provide the documents to the Court for the assigned judge to decide if the matter is an emergency or not. If the assigned judge determines it is not an emergency, then it will not be considered by the Court until on or after May 18, 2020.

12. DOMESTIC VIOLENCE/HARASSMENT/STALKING/SEXUAL /ASSAULT CIVIL PROTECTION ORDER (PO) Hearings. All new Protection Order hearings shall be set on or after May 18, 2020. For all pending Protection Order hearings: PARTIES SHALL NOT ATTEND COURT IN PERSON, but may submit written materials by mail or email so long as other party receives service. Pending Protection Order hearings shall be handled as follows:

a. IF NO SERVICE ON OTHER PARTY:

i. If Temporary PO has been granted by a judicial officer and no proof of service on other party filed, then the assigned judicial officer will automatically reissue an order setting a new date and reissue the temporary PO until that new date. The parties are NOT TO APPEAR until the new date for the PO hearing.

ii. If Temporary PO has been denied, but a hearing has been set, and no proof of service on other party filed, then the assigned judicial officer will automatically reissue an order setting a new date. The parties are NOT TO APPEAR until the new date for the PO hearing.

b. IF PROOF OF SERVICE ON OTHER PARTY FILED:

i) Parties should appear by an electronic process approved by the Court or request a continuance from the clerk's office. If a continuance is requested and the other party does not object, the assigned judicial officer will reissue the temporary order setting a new date on or after May 18, 2020. The parties are NOT TO APPEAR until the new date for the PO hearing.

c. WEAPONS SURRENDER COMPLIANCE HEARINGS: Petitioners shall not appear except by an electronic process approved by the Court.

i) All newly set Order to Surrender Weapons Compliance Review Hearings shall be extended on or after May 18, 2020 pursuant to Supreme Court Emergency Order.

ii) For Pending Compliance Hearings: If a Respondent is served with an Order to Surrender Weapons and there is proof of service then the hearing will proceed as scheduled but the Respondent shall appear by Court Call ONLY IF Respondent has not already filed a "Declaration of Non-Surrender" or a "Receipt for Surrender."

13. STATE'S PATERNITY, CONTEMPT, AND CHILD SUPPORT TRIAL DOCKETS.

a. All court appearances for the state paternity motion docket are cancelled until the next regularly scheduled hearing on or after May 18, 2020.

14. GENERAL. In general the following shall be applied:

a. Signatures.

i. The Court shall allow electronic copies of signatures, and will consider such copies as if an original signature, to include, but not limited to, scanned signatures. A party submitting a signature under this paragraph is not required to include a GR 17 affidavit. This exception shall continue until further court order.

ii. *For documents being filed with the Superior Court or Juvenile Court Clerk's Office:* THIS DOES NOT ALLOW FOR ANY PARTY, COUNSEL, OR ANY OTHER COURT PARTICIPANT FILING A DOCUMENT, TO EMAIL THE DOCUMENT TO THE SUPERIOR COURT CLERK TO HAVE THE CLERK PRINT OUT THE DOCUMENT/S FOR FILING, UNLESS OTHERWISE APPROVED BY A JUDICIAL OFFICER - THE DOCUMENTS WILL HAVE TO BE MAILED OR HAND DELIVERED.

b. Interpreters. An interpreter for a case shall not be scheduled for any hearings, unless, in addition to the regular requirements, at least forty eight hours before the hearing: a.) The attorney/party, in writing, requests Court Administration to provide an interpreter; and b.) The assigned judge approves the providing of an interpreter for that case on that docket. The sole exception is if the attorney/party does not know

about the case being heard until after the forty eight hours, at which time the attorney/party must immediately comply with the requirements of the requirements set forth in this paragraph.

c. Trial Assignments (Civil/Domestic). All Civil/Domestic Trial Assignment dockets are cancelled and will resume the week of May 18, 2020.

d. Virtual Hearings. All hearings prior to June 1, 2020, shall be through an electronic platform approved by the Court, except scheduled adult criminal cases authorized by the judicial officer.

The effective date of this Order is May 1, 2020. This revised and extended Emergency Order No. 2-A supersedes this Court's prior Emergency Order 1-A, and modifies Emergency Order No. 3. This Court may extend the time frames in this Order as required by continuing public health emergency, and if necessary, will do so by further order.

DATED this 1st day of May, 2020.



JUDGE GARY BASHOR
PRESIDING JUDGE OF
COWLITZ COUNTY SUPERIOR COURT

ATTACHMENT A

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

In re

Petitioner,

and

Respondent.

No.

COURT'S AUTOMATIC
TEMPORARY ORDER
(TMRO)

Pursuant to Supreme Court emergency order, no hearings shall be held in this matter through June 1, 2020, barring emergency motions.

I. NOTICE TO PARTIES

An action has been started in this court that affects your marriage, and/or seeks the establishment of a parenting plan. Both parties are now required to obey the following order unless the court changes it. Either of you may ask the court to modify this order upon filing a motion and properly serving it on the other party. Should either party violate this order, a party may request sanctions including, but not limited to, requesting that the other party pay their attorney's fees and costs for having to bring the violation before the court.

II. ORDER

IT IS ORDERED:

- 2.1** TEMPORARY ORDERS FOR ALL PARTIES INVOLVED IN A DISSOLUTION CASE
- a. Both parties are restrained from transferring, removing, encumbering, concealing,

damaging or in any way disposing of any property except in the usual course of business or for the necessities of life or as agreed in writing by the parties. Each party shall notify the other of any extraordinary expenditures made after this order is issued. This order does not preclude a party from accessing funds in a reasonable amount to retain counsel;

- b. Both parties are restrained from assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of either or both parties or of any dependent children, whether medical, health, life or auto insurance, except as agreed in writing by the parties;
- c. Unless the court orders otherwise, both parties are responsible for their own future debts whether incurred by credit card, loan, security interest or mortgage, except as agreed in writing by the parties;
- d. Both parties must have access to all tax, financial, legal, and household records. Reasonable access to records shall not be denied without order of the court.
- e. Both parties are prohibited from disturbing the peace of the other party. This order will not be filed in the law enforcement database.
- f. If the parties have minor children *together* then they shall abide by the Child Relocation Act found at RCW 26.09.405-900.

2.2 REQUIRED DISCLOSURES / DOCUMENT EXCHANGES

Both parties shall file under seal and serve all parties with the following: two (2) years tax returns (including W-2 and 1099 forms) and a current wage stub. In cases involving children both parties shall file and serve all parties with a Proposed Parenting Plan and Child Support Worksheet. See www.courts.wa.gov/forms for help with these forms.

2.3 GUARDIAN AD LITEM

If a party believes a Guardian ad Litem (GAL) needs to be appointed for the minor child(ren), the party must make a motion for the appointment of a GAL.

2.4 EFFECTIVE DATE OF ORDER

The Petitioner is subject to this order from the time of filing the Petition. The Petitioner shall serve a copy of this on Respondent and file proof of service. The Respondent is subject to this order from the time that it is served. This order shall remain in effect unless expressly changed by further court order or entry of final documents.

2.5 HELPFUL INFORMATION

More information is available at:

- The Washington State Courts' website: www.courts.wa.gov/forms,
- The Administrative Office of the Courts – call: (360) 705-5328,

- Washington LawHelp: *www.washingtonlawhelp.org*, or
- The Superior Court Clerk's office or county law library (for a fee).

DONE this _____ day of _____ 20____.

SUPERIOR COURT JUDGE / COMMISSIONER