

FILED

2020 MAY -6 AM 9:01

HEIDI PERCY
COUNTY CLERK
SNOHOMISH CO. WASH

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

IN RE THE MATTER OF)
THE RESPONSE BY SNOHOMISH) NO. <u>2020-7005-31-A</u>
COUNTY SUPERIOR COURT TO THE)
PUBLIC HEALTH EMERGENCY IN) EMERGENCY ORDER #3D
SNOHOMISH COUNTY AND THE STATE OF) RE: JUVENILE COURT OPERATIONS
WASHINGTON)
_____)

THIS MATTER COMES BEFORE THE COURT on the public health emergency in Washington State and in Snohomish County.

WHEREAS, on January 31, 2020, the Secretary of Health and Human Services declared a public health emergency under Section 319 of the Public Health Service Act (42 U.S.C. 247d) in response to COVID-19; and

WHEREAS, on February 29, 2020, Governor Jay Inslee issued Proclamation 20-05, declaring a state of emergency throughout all counties of the Washington state due to the public health emergency posed by the coronavirus 2019 (COVID-19); and

WHEREAS, on March 1, 2020, President Donald J. Trump proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency; and

WHEREAS, on March 23, 2020, in response to the Covid 19 emergency, Governor Jay Inslee issued Proclamation 20-25 "Stay Home, Stay Healthy," prohibiting all people in Washington from leaving their homes, except to conduct or participate in essential activities. In

complying with the prohibition, lawyers, litigants, and witnesses will be unable to attend court for nonessential hearings unless by means of a system for telephonic or video appearance; and

WHEREAS, on March 24, 2020, Snohomish County Executive Dave Somers signed Emergency Executive Order No. 20-04, stating, “all people in Snohomish County shall immediately cease leaving their home or place of residence except (1) to conduct or participate in essential activity and/or for employment in essential business services;” and

WHEREAS, obtaining signatures from defendants for orders continuing existing matters places significant burdens on attorneys, particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person; and

WHEREAS, on March 26, 2020, in response to the COVID-19 emergency, Governor Jay Inslee issued Proclamation 20-33 pursuant to RCW 43.06.220(2)(g), amending RCW 13.34.1362(b)(ii)(A) and (C) relating to visitation for children removed from their home, RCW 13.34.025(2)(c) relating to remedial services and RCW 74.13.031(6) requiring monthly face to face visits with children in out of home placements and their caregivers; and

WHEREAS, on May 4, 2020, Governor Jay Inslee issued Proclamation 20-25.3, finding that emergency conditions continue to exist as a result of the pandemic related to the COVID-19 virus, and adjusting and extending the “Stay Home, Stay Healthy” restrictions, with some modifications through May 31, 2020; and

WHEREAS, there are a significant number of identified and projected cases of COVID-19 infection and deaths in Snohomish County and throughout Washington State, and while social distancing and other precautions are helping to curb the rise of new cases, the severity of the risk

posed to the public, county and state agency staff, court personnel, litigants and their families, attorneys, contractors and volunteers remains high;

NOW THEREFORE, it is hereby ORDERED, pursuant to the authority of Washington State Supreme Court Order No. 25700-B-607, Second Revised and Extended Order Regarding Court Operations No. 25700-B-618, Extended and Revised Order Re: Dependency and Termination Cases No. 25700-B-622, and the authority of the Presiding Judge of the Snohomish County Superior Court, that the following shall be in effect May 1, 2020:

OFFENDER MATTERS IN JUVENILE COURT

1. Fact Finding Trials. All out-of-custody offender fact findings shall be CONTINUED until at least June 1, 2020. All in-custody offender fact findings will maintain their current trial schedule, absent a finding of good cause made on a case-by-case basis.
 - a. Due to the declared public health emergency, and its effect on the ability and availability of counsel and Court staff to be present in the courtroom, the time period of the continuances granted by the orders of this court between March 18, 2020 and the offender's next trial date set after June 1, 2020 but not later than September 1, 2020, shall be excluded in computing time for trial pursuant to JuCR 7.8(b). The Court further finds that the ends of justice served by continuing these cases outweighs the defendant's right to a speedy trial.
 - b. The Court further finds that any delays in the time for trial are the result of unavoidable and unforeseen circumstances and are therefore excluded from computing time for trial by JuCR 7.8(e)(7).

2. Trial Confirmation Hearings. Through June 1, 2020, out-of-custody Respondents need not appear for their offender trial confirmation calendars held on Thursdays at 9:00 a.m. No warrants will be issued solely for failing to appear at the hearing. All cases will be either confirmed, continued, or set for a plea through a separate order in the manner described below.
3. For juvenile offender cases that are continued pursuant to this order, the attorneys for each Respondent will confer with the assigned Deputy Prosecuting Attorney and determine whether the case is confirming for trial, setting a plea hearing or requesting an agreed trial continuance, with proposed new dates beyond June 1, 2020. Those orders will be prepared by the parties and submitted to the court for approval ex parte.
4. Offender Docket and Motions. Until further notice, the Offender Docket and Motions calendar held on Mondays shall be moved from 10:30 a.m. to 11:00 a.m. The Offender Docket and Motions calendar held on Tuesday, Wednesday and Thursday will remain at 10:30 a.m. On that calendar the Court will hear Probable Cause hearings, Arraignments, Warrant Requests and Returns, Motions to Quash Warrants, Bail Review hearings (with proper notice given), Revocations (urgent matters only), and Truancy and ARY warrant/quash requests. Except for Arraignments, Motions to Quash Warrants and Revocations, the calendar is limited to *in-custody offenders only*. The Offender Motion and Docket Calendar on Fridays will be cancelled. Probable Cause hearings and Warrant requests on Fridays will be heard on the SAU calendar at 10:30 a.m. Previously scheduled out-of-custody matters on the Offender Docket and Motion calendars for dates in May 2020 shall be reviewed by the Deputy Prosecuting Attorney and Respondent's attorney to determine which cases should remain on the calendar; all other cases will be stricken and

continued to a date after June 1, 2020. A separate order shall be prepared for each case that will be continued. The parties shall provide the Court with one (1) day advance notice of the matters that will go forward on each date.

5. Arrestment. All offender arrestments set on the 9:00 a.m. Monday Arrestment Calendars in May, 2020 shall be moved to the 11:00 a.m. Offender In-custody Docket and Motions Calendar on that same day.
6. Plea and Disposition. All cases set on the 9 a.m. Plea and Disposition calendar on Wednesdays in May 2020 shall be reviewed by the assigned Deputy Prosecuting Attorney and Respondent's attorney, and a case-by-case determination shall be made as to whether the matter should proceed as scheduled or be continued to a date after June 1, 2020. A separate order shall be prepared for each case that will be continued. The parties shall provide the Court with one (1) day advance notice of the matters that will go forward on each date.
7. Sealing Juvenile Offender Records. Except for cases where an agreed order has been reached, all cases on the 2:00 p.m. Thursday Sealing calendars shall be CONTINUED to a date after June 1, 2020. Agreed orders may be reviewed and entered ex parte. The Prosecuting Attorney's Office shall prepare orders continuing each case previously calendared on dates in May, 2020 to a date after June 1, 2020.
8. SAU Calendar. Until further notice, the 9:30 Friday Sexual Assault Unit (SAU) Offender calendar will be moved to 10:30 a.m. The SAU calendar is limited to 4 cases per week, except for Arrestments and Probable Cause hearings on SAU and non-SAU matters. Priority for scheduling cases on a calendar shall be given to in-custody offenders. Each case previously set on the calendar for dates in May 2020 will be reviewed by the assigned Deputy Prosecuting Attorney and Respondent's attorney and a case-by-case determination will be

made as to whether the matter should proceed as scheduled or be continued to a date after June 1, 2020. A separate order shall be prepared for each case that will be continued. The parties shall provide the Court with one (1) day advance notice of the matters that will go forward on each date.

9. Extension of Juvenile Court Jurisdiction. 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 June 1, 2020, shall be extended to the offender's next scheduled juvenile court hearing after June 1, 2020. Proposed Orders extending juvenile court jurisdiction may be submitted to a juvenile court judge on an ex parte basis.

DEPENDENCY MATTERS IN JUVENILE COURT

10. Dependency Hearings. The Court finds that unforeseen exigent circumstances exist requiring the continuance of dependency hearings and, in some cases, extending those hearings beyond the typical statutory time frames. Accordingly, the following dependency hearings for the month of May, 2020 shall be CONTINUED to a date after June 1, 2020, unless an agreed order is entered by the parties:

- a. Termination Preliminary Hearings
- b. Dependency Publication/Default Preliminary Hearings
- c. Dependency Review and Permanency Planning Hearings
- d. Dependency and Guardianship Preliminary Hearings
- e. Dependency Fact Findings
- f. Dependency Settlement Conferences
- g. Unified Family Court Preliminary Hearings

h. Special Set Dependency Hearings previously scheduled on Fridays at 10 a.m.

For cases that are continued, the attorneys assigned to each case shall confer with the Judge's Law Clerk as to available dates and prepare orders continuing each matter, consistent with the Blue/Red calendaring system.

11. Dependency Fact Findings. The Court finds that exceptional circumstances exist to continue dependency fact finding hearings beyond the statutory 75-day period and, at this time, all dependency fact finding hearings scheduled for dates in May 2020 shall be CONTINUED to the next available date after June 1, 2020.

12. Unified Family Court. For Unified Family Court hearings on Mondays at 10:00 a.m., all matters shall be CONTINUED to a date after June 1, 2020, except:

- a. Cases where an agreed family law order is ready to be entered;
- b. Cases where a motion for default has been noted and served on the respondent and entry of a family law order (temporary or final) may be entered; and
- c. Cases where the family law action may be dismissed and either the dependency/shelter care action will be dismissed, or the dependency/shelter care action will be unlinked and proceed separately.

Those hearings shall be conducted telephonically. For cases previously scheduled to be heard on May 11, May 18 and May 25, 2020, the attorneys assigned to each case shall confer with each other and the UFC Coordinator to determine which cases may remain on the calendar, and which cases shall be continued pursuant to the Court's directive. Where a case

is to be continued, the attorneys assigned to each case shall prepare orders of continuance, consistent with the Blue/Red calendaring system.

13. Default. For Termination Preliminary Hearings and Dependency Preliminary Hearings where service was made by publication, a default motion has been made, and no appearance or response has been received by the respondent, the Court will not enter default orders on a date for which a hearing was cancelled under this order. The motion for default will be considered at the next scheduled hearing date.
14. Shelter care hearings. Shelter care hearings will be held daily as needed at 1:15 pm., Monday through Friday. The shelter care calendar previously held on Fridays at 9 a.m. is cancelled until further notice. The parties are encouraged to appear telephonically. Where an agreed order is reached and the shelter care hearing is waived, the Parent(s) waiving the hearing shall appear telephonically to state their intention to waive the hearing on the record. Telephonic appearance will be considered an “appearance in court” for this purpose.
15. Motions to Shorten Time. All dependency Motions to Shorten Time will be heard only at 2:00 p.m. on Monday, Tuesday and Wednesdays. Scheduling for those dates and times must be made through the Judge’s law clerk. Where an emergency occurs on a Thursday or Friday necessitating a motion on shortened time, the moving party shall contact the Judge’s law clerk for assistance in scheduling a hearing. Oral argument is limited to 5 minutes per side. All hearings will be conducted telephonically.
16. Contested and Special Set Motions. Contested dependency motions and other special set motions shall be heard on Mondays, Tuesdays and Wednesdays at 2:15 p.m. and 3:00 p.m. Scheduling for those dates and times must be made through the Judge’s law clerk. The

parties shall appear telephonically for these hearings. If testimony is to be taken, advance notice must be provided to the Court and other parties.

17. Adoption Review Hearings. Non-contested adoption review hearings on Mondays at 8:30 a.m. shall continue to be handled ex parte.

18. Legally Free Review Calendar. Cases scheduled on the Legally Free Calendar on the first and third Friday of each month at 3:00 p.m. will continue to be heard. All cases in which an agreed order is reached by the parties may be submitted ex parte for review by the Judge. In contested cases, the parties are encouraged to appear telephonically.

19. Dependency Visitation Orders.

- a. The Court finds that the Governor, through Proclamation No. 20-25 “Stay Home, Stay Healthy” and Proclamation 20-33 “Child Visitation and Remedial Services” has determined that the COVID-19 pandemic presents a public health emergency that could disrupt the availability of an adequate number of relative caregivers, other suitable persons, foster parents, and group homes necessary to provide essential services to dependent children.
- b. The Court further finds that the Governor determined that it was necessary to immediately waive and suspend in-person visitation requirements under RCW 13.34 and RCW 74.13, which require in-person visitation of children in the custody of DCYF by parents or other family members and by DCYF case workers.
- c. The Court finds that according to the Snohomish Health District, there are 2,447 confirmed cases and 224 probable cases of COVID-19 virus in Snohomish County, alone. Of those cases, 1,639 were acquired in the community and another 300 cases are still under investigation as to how the virus was acquired.

- d. The Court having reviewed the aforementioned Proclamations 20-25, 20-33 and Governor's Directive 20-02, and being informed as to Snohomish Health District's Health Officer's Order No. 20-062, and the guidance promulgated by the U.S. Department of Health and Human Services Children's Bureau, and Snohomish County Health District COVID-19 Fact Sheet on the spread of COVID-19, and measures that can be taken to protect individuals, hereby finds that the continuation of in-person visitation poses a risk of actual harm for children and youths subject to the jurisdiction of this court, who are living out of home as the result of dependency actions.
- e. Accordingly, the Court orders that in-person visitation authorized in prior dependency orders shall be suspended until further notice, unless otherwise authorized by this Court in a separate order issued after March 23, 2020. Instead, families shall be afforded visitation by telephone, video conferencing, or other electronic means acceptable to the parties. DCYF shall remain responsible for facilitating such telephone, video or other electronic visitation to the extent necessary to ensure that visitation is continuing where requested.
- f. This change to visitation shall be documented by the Social Worker in the case file, court reports and court orders.
- g. Any parent impacted by a change or modification to visitation as a result of the COVID-19 emergency may file a motion seeking in-person visits. In making a determination on the motion, the judge shall consider the relevant facts of the case, the dependency statutes and relevant case law, the Governor's Proclamations and Directives, guidance from the U.S. DHHS Children's Bureau, the public health risks

resulting from exposure to COVID-19, the child's age and developmental level, the feasibility of in-person and remote visitation, the functional capacity of the parent and child, the child's best interests and the child's health, safety and welfare.

- h. If, after such a hearing, the court grants in-person visitation, the order shall specify the health, safety and welfare protocols that must be followed by each person participating in the in-person visit.

TRUANCY, CHINS/ARY AND EMANCIPATION MATTERS IN JUVENILE COURT

20. Truancy Hearings. All hearings in Truancy matters held on Mondays at 9 a.m., 10 a.m. and 11 a.m. and Thursdays at 9 a.m., 10 a.m. and 11 a.m. shall be continued to a date after May 11, 2020. Upon resumption of hearings, each calendar shall be limited to four (4) fact finding hearings. Hearings shall be conducted telephonically using CourtCall. The Court will continue to review orders received from school districts ex parte.
21. ARY and CHINS. All hearings on At-Risk Youth (ARY) and Children in Need of Services (CHINS) matters held on Monday and Thursdays at 1:00 p.m., except extensions and terminations as set forth herein, shall be continued to a date after May 11, 2020.
 - a. All extensions of ARY/CHINS petitions will be considered telephonically by calling (425) 388-7954, except in cases where a judicial officer requests all parties to appear telephonically or in-person observing strict social distancing protocols.
 - b. Requests to terminate ARY/CHINS petitions shall be noted for a telephonic hearing unless an agreed order is submitted to Court. Agreed orders to terminate ARY/CHINS petitions may be submitted ex parte to a Judge at the Denney Juvenile Justice Center.

Agreed orders shall contain the signature of the petitioner, which may be made digitally according to SCLRGR 30A.

22. Emancipations. All Emancipation hearings scheduled for hearing in May, 2020 shall be continued to a date after May 11, 2020.

OTHER MATTERS

23. Motions Without Oral Argument. Motions without oral argument in offender and dependency cases may be submitted for review in chambers at 1:00 p.m. on Monday, Tuesday, Wednesday, and Thursday of each week.
24. COVID-19 Protective Protocols. Where an in-court hearing will be held, given the need to ensure that those attending hearings can socially distance themselves from other participants or members of the public in the limited space in the DJJC courtrooms, parties awaiting their hearing are requested to wait in the lobby until their case is called through the paging system. The Court may order participants and visitors to wear masks in any in-court proceeding. All persons entering the courtroom shall observe strict social distancing. If a person refuses to comply with the COVID-19 protective protocols at an in-person hearing, he or she may be removed from the courtroom.
25. CourtCall for Telephonic Hearings. Beginning on Monday, May 11, 2020, in all cases in which the parties are ordered to appear telephonically, the parties shall be required to use CourtCall. Each party is responsible for calling into CourtCall prior to the start of the hearing, and shall remain available from the scheduled start time of the hearing for a period of up to one hour. Any person not appearing through CourtCall at the start of the hearing will be deemed to have missed the hearing, as though they had not appeared in court. In the


event a party does not have access to a telephone, he or she may appear in the courtroom, subject to the COVID-19 social distancing protocols.

26. Zoom for Virtual Hearings. The Court may order future hearings to be held via virtual using Zoom technology. Where Zoom is ordered, the Court shall enter further orders specifying the procedures to be used.
27. Orders Continuing Hearings and Other Matters. Proposed motions and orders continuing hearings and other agreed orders shall be submitted to the Judge for signature ex parte.
28. Client Signatures. Based on the unforeseen exigent circumstances that exist relating to the COVID-19 public health emergency, counsel may propose orders of continuance and other agreed orders without the signature of their client, except for UFC final family law orders, and the parties and attorneys may use digital signatures as authorized by SCLRGR 30A.

This order repeals and supersedes Snohomish County Superior Court Emergency Order 3C. This order supplements Snohomish County Superior Court Emergency Order #6 or, if and when it is in effect, Emergency Order #7 and future amendments to the same. In the event that Emergency Order #6 and #7 are superseded by a future order, this order supplements said order unless specifically provided to the contrary in that future order.

This Order may be further extended or modified.

DATED this 5th day of May, 2020.



Judge George F.B. Appel
Acting Presiding Judge