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COUNTY CLERK
2020 MAY -1 P 4: 54
WHATCOM COUNTY
WASHINGTON
BY _____

IN THE SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF WHATCOM

IN THE MATTER OF RESPONSE TO PUBLIC)
HEALTH RISK DUE TO COVID-19 PUBLIC) FOURTH
HEALTH EMERGENCY) ADMINISTRATIVE ORDER
) NO. 20-2-0001-37
)

WHEREAS the state of emergency declared by the Governor of this State and resulting from the current COVID-19 pandemic and described in this Court's previous Administrative Orders of March and April 2020, continues, and

WHEREAS the Washington Supreme Court has adopted Orders granting this Court emergency authority to adopt, modify and suspend court rules and take further actions as warranted to address the current state of emergency, and has updated those Orders with its Second Revised and Extended Order Regarding Court Operations, No. 25700-B-618, dated April 29, 2020; and

WHEREAS the Court has implemented technology and procedures to permit hearings of certain matters by telephone, Go To Meeting, Zoom or other measures permitting participants to appear before the Court without physical presence in the courtroom (herein "remote technology" or "remotely"), and

WHEREAS the Court will endeavor to hear those matters in which remote procedures will be achievable and will provide the judge with the information necessary to make informed decisions on the cases involved,

NOW, THEREFORE, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY:

A. JURY TRIALS.

The Court will conduct no jury trials until July 6, 2020.

B. ADULT AND JUVENILE CRIMINAL CASES:

1. *Trials.* All criminal trials remain suspended until at least July 6, 2020. Nonjury trials may be conducted by remote means or in person with strict observance of social distancing and other public health measures. The time between April 29, 2020 and September 1, 2020 shall be excluded when calculating time for trial.

2. *Other Matters.* Criminal and juvenile offender matters in which the defendant is out of custody may be continued until after June 1, 2020, except for (a) those matters in which proceedings may be conducted remotely and (b) matters that require in-person attendance but should be heard immediately in the interests of justice, provided that any such hearings strictly comply with current public health mandates.

3. *Deferral of Arraignments – Out of Custody Defendants.* Arraignments on charges filed after March 18, 2020 against defendants who are out of custody are deferred until 45 days after the filing of charges. The new arraignment date shall be considered the “initial commencement date” for purposes of establishing the time for trial.

4. *Proceedings for In Custody Defendants.* Criminal proceedings for adult and juvenile defendants who are in custody will be continued until after June 1, 2020, except for first appearance hearings, arraignments, plea hearings, criminal motions, sentencing or disposition hearings, which will be scheduled as deemed necessary by the Court according to the circumstances of the case. Priority will be given to pretrial release and bail modification hearings and plea, disposition or sentencing hearings which will result in the defendant’s release from custody within 30 days of the hearing.

5. The Court’s prior Administrative Orders remain in effect to the extent they are not inconsistent with this Order. The procedures described in the Court’s March 16, 2020, regarding document signatures; trial call, motions and plea calendars on adult criminal cases; and adult first appearances and arraignment procedures remain in effect.

C. JUVENILE CASES.

1. *Time for Adjudicatory Hearing and Arraignment suspended.* JuCr 7.6 (a) and JuCr 7.8 (b) are temporarily suspended until further notice.

2. *Juvenile probation calendar.* All juvenile probation calendars are hereby cancelled until after June 1, 2020. Emergent matters may be heard at the discretion of a judicial officer.

3. *Juvenile status calendar.* All parties are strongly encouraged to enter orders continuing trial dates that are set before June 1 by agreement in order to minimize the number of people appearing in the courtroom at that time, or to request a trial date by motion to the Court, in those cases in which social distancing requirements can be observed.

4. *Trials*. No juvenile offender trials will be held before June 1, 2020, unless specifically authorized for extraordinary reasons by the assigned Judge.

5. *Juvenile civil matters (truancy, at risk youth, CHINS)*. No juvenile civil matters will be heard before June 1, 2020, unless specifically authorized by a judicial officer for extraordinary reasons. Youth brought into detention shall be immediately released with a promise to appear at a date after June 1, 2020.

6. *Dependency matters. Shelter care hearings are emergency hearings and will continue to warrant scheduling on an emergency basis.* Other Dependency matters, such as reviews, motions, status hearings and other issues which are usually heard by a commissioner may be set for remote hearing or in person hearing with observation of social distancing requirements. The commissioner will determine how such matters will be heard.

D. DOMESTIC CASES.

1. *Emergent issues*. The Court will continue to prioritize cases involving issues regarding child visitation or primary residency. Determination of the emergent nature of a motion will be made by judicial officers.

2. *Other Cases*. The Court will hear motions and conduct nonjury trials in domestic cases in proceedings which can be conducted remotely or in person with strict observance of social distancing requirements. The assigned judicial officer has discretion to continue matters beyond June 1, 2020. The Court may limit the number of matters than can be heard on a given calendar in order to ensure remote hearings can be conducted effectively and that proper social distancing can be utilized in courtrooms.

E. OTHER CASES.

1. *Guardianships*. Parties are encouraged to schedule guardianship hearings. For regular review hearings, parties need only appear in court if the review is contested or if specifically requested to appear by the assigned Judge. A proposed order should be submitted to the court for signature on unopposed motions.

2. *Protection orders*. The court finds good cause to extend the time for a hearing on a protection order to 28 days. Commissioners will continue to review *ex parte* petitions to determine whether a temporary order is warranted. Commissioners will then determine when to schedule a hearing, if necessary, within the 28-day period.

3. *Civil Commitments*. Judicial officers will attend civil commitment hearings from the courthouse, via telephone.

4. *Ex parte orders*. Parties are strongly encouraged to submit *ex parte* orders via the clerk's office, and the Court hereby *waives* the \$30 *ex parte* fee through July 1, 2020.

5. *State Child Support Calendar.* This calendar will be conducted by remote means or in person with strict observance of social distancing and other public health measures. This calendar will resume on May 12, 2020. The commissioner will determine how such matters will be heard.

F. PROCEDURES AT REMOTE HEARINGS

1. Hearings on issues to be decided as a matter of law will be heard by telephone or remote technology, or will be decided on the basis of the pleadings. If the Court determines that a matter may be decided on the basis of the pleadings, the parties will be notified and will be given an opportunity to file a written statement of argument, up to 3 pages long, in substitution for oral argument.
2. Hearings including issues of fact will be assessed by the Court, which will determine on a case by case basis whether the matter should be heard by remote technology or in person hearing with current social distancing, or whether an in person hearing should be scheduled for such time as in person hearings may be conducted pursuant to the proclamations of the Washington Supreme Court and/or Governor.
3. Cases scheduled for hearing by remote technology must be prepared in advance as follows:
 - A. Hearings should be scheduled by the usual procedures: hearings may be set on the appropriate motions calendar or may be special set as appropriate. Scheduling should be done through the clerk's office for the court commissioners' calendars and through the judicial assistants for hearings scheduled before a preassigned judge. When a hearing is scheduled, the parties will receive an email containing the links and information necessary to enter the hearing by telephone or remote technology. For any disputed evidentiary hearings where witnesses are expected to be called, the Court must have the ability to view all fact witnesses during the course of their testimony via remote technology. All remote participants using remote technology, including attorneys, clients, witnesses or other participants in litigation must have an electronic device with camera, microphone and audio supported by a stable internet connection. Judicial officers have discretion to determine whether any remote connection is satisfactory to maintain an accurate record of proceedings and whether any proceeding should be continued because technological factors render the fidelity of the record of a remote hearing uncertain or unacceptable.
 - B. If requested by the Court, the parties will submit brief (one page) summaries of the issues in the case; the witnesses who will testify; and the anticipated testimony of each witness.
 - C. At least two full court days before the date of the hearing, the parties must submit two sets of copies of all exhibits they expect to offer in evidence at the hearing.

These copies should be directed to the judicial officer in chambers. One copy will be the judicial officer's working copy. The other copy will be recorded by the clerk as proposed trial exhibits, and individual documents will be admitted or rejected by the Court during the hearing. The parties are encouraged to stipulate in writing to admissible exhibits prior to the time they are submitted so that any remote hearing can focus on disputed exhibits.

- D. Parties participating in hearings by remote technology must have a working telephone readily accessible and must use it to call in to the hearing if their connection through the remote technology is corrupted or lost.

DATED this 1 day of May, 2020.



Deborra Garrett, Presiding Judge