



March 16, 2020

SENT VIA EMAIL

Justice Walters
Chief Justice, Oregon Supreme Court
Oregon Supreme Court
1163 State Street
Salem, OR 97301

Nancy Cozine
State Court Administrator
Supreme Court Building
1163 State Street
Salem, OR 97301-2563

Dear Chief Justice Walters and State Court Administrator Cozine,

Governor Brown issued Executive Order 20-03 and declared a State of Emergency on March 8, 2020 under ORS 401.165 *et seq* due to the public health threat posed by the novel infectious coronavirus (COVID 19).

In light of this measure and to protect the health and safety of court employees, elected officials, and the general public, and under ORS 1.002(1)(i), the Oregon Supreme Court should order the following measures to be implemented from Tuesday, March 17, to Friday, April 10, 2020¹:

1. With the exception of emergency and time-sensitive matters, including but not limited to, stalking, domestic and sexual violence hearings, emergency custody hearings,

¹ These recommendations are based off of the order issued by the Chief Justice of Supreme Court of Kentucky in response to COVID 19 https://kycourts.gov/courts/supreme/Rules_Procedures/202009.pdf

evidentiary hearings in criminal cases, in-custody arraignments, in-custody preliminary hearings, in-custody release and bail motions, and in-custody probation violation hearings, all in-person appearances for civil and criminal dockets should be canceled. Judges are encouraged to use telephonic or video technology for all necessary hearings.

1. A clear and expedited process should be identified for those who are currently incarcerated and may exhibit symptoms of COVID 19 or test positive for COVID 19, and are therefore seeking legal remedies for release, treatment, a change in conditions, or anything related to their treatment and COVID 19.
2. The courts should prioritize and expedite release hearings, releasing individuals from jail who are not a threat to public safety.

All civil trials, hearings, and motions should be postponed and rescheduled for a later date or judges are encouraged to use telephonic or video technology for a hearings . Any civil trial or hearing currently in progress shall be set over or completed at the discretion of the presiding judge. Exceptions are civil petitions for an order of protection in cases of stalking, sexual and domestic violence.

3. Reasonable attempts should be made to reschedule all criminal trials, subject to a defendant's right to a speedy trial.
4. With the exception of emergency matters and hearings statutorily required to be held, small claims, eviction, juvenile, probate, traffic, and guardianship cases should be set over.
5. Courtroom attendance should be limited to attorneys, parties, district attorney-based and/or community-based victim advocates, and necessary witnesses.
6. A case involving an attorney or party who is ill or in a high-risk category should be rescheduled.
7. Judges should issue citations in lieu of bench warrants or notices of failure to appear.
8. All show cause dockets for payment of fines and court costs scheduled within this timeframe should be continued for 60 days.
9. The 30-day preliminary hearing requirement for out-of-custody defendants under ORS 135.070 should be waived during this time period.
10. Jurors who are ill, caring for someone who is ill, or in a high-risk category should have their jury service postponed to a later date.
11. New juror orientations should be suspended.

12. Existing jury panels maybe extended at the discretion of the court.
13. Signage should be posted at all public entry points advising individuals not to enter the building if they have:
 1. In the previous 14 days, visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC;
 2. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
 3. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
 4. Been asked to self-quarantine by any doctor, hospital, or health agency;
 5. Been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19; or
 6. A fever, cough or shortness of breath.
14. Individuals attempting to enter in violation of these protocols should be denied entrance by a bailiff or court security officer.
15. Bailiffs should discourage congregating outside courtroom doors and encourage social distancing inside the courtroom.
16. Individuals with legitimate court business who are ill, caring for someone who is ill or in a high-risk category are advised to stay home and request a continuance by calling the local Office of Circuit Court Clerk.
17. Courts should default to noncustodial sentences where possible, including avoiding resolutions that could lead to immigration detention.
18. Cancel probation, parole, and pretrial meetings; court-ordered classes, in-person drug testing; and modify all reporting conditions to phone reporting.
19. Courts should waive all overdue court fees, fines, or penalties and order that no fees, fines, or penalties should be assessed during this crisis.

Nothing shall preclude the presiding judges in each circuit from implementing additional local restrictions as needed.

Sincerely,

Kelly Simon
Interim Legal Director
ACLU of Oregon
503-564-8511
ksimon@aclu-or.org

Tom Stenson
Deputy Legal Director
Disability Rights Oregon
tstenson@droregon.org

Shaun McCrea
Executive Director
Oregon Criminal Defense Lawyers Association
541-6868-8716
smccrea@ocdla.org

Bobbin Singh
Executive Director
Oregon Justice Resource Center
503-944-2270 ext. 205
bsingh@ojrc.info

Andy Ko
Executive Director
Partnership for Safety & Justice
503-335-8449
andy@safetyandjustice.org

Paul Solomon
Executive Director
Sponsors, Inc.
541-485-8341
pjsolomon@sponsorsinc.org

CC:

Tina Kotek, Speaker of the House
Peter Courtney, President of the Senate
Nik Blosser, Chief of Staff, Office of the Governor
Constantin Severe, Public Safety and Military Policy Advisor, Office of the Governor

Dustin Buhler, General Counsel, Office of the Governor
Beth Hackert, President, Oregon District Attorney Association
Sheriff Terry Rowan, President, Oregon State Sheriff's Association

Enclosed:

OCDLA Pond Responses (3/16/2020)

Federal Court Order, District of Oregon (3/13/2020)