

**EVERETT MUNICIPAL COURT
SNOHOMISH COUNTY, WASHINGTON
OFFICE OF THE PRESIDING JUDGE**

IN RE:

CORONAVIRUS/COVID-19

PRECAUTIONARY MEASURES XII

**GENERAL ADMINISTRATIVE
ORDER NO. 2020-19**

This Court finds that there is a public health emergency caused by the spread of Coronavirus/COVID-19 in all Washington counties, including Snohomish County, and that an order to suspend certain court rules and to take further actions concerning court operations is needed to promote the safety of court employees, court participants and the general public; and

WHEREAS, on October 13, 2020, the Chief Justice issued Order No. 25700-B-646, its Fourth Revised and Extended Order Regarding Court Operations (“Fourth Revised Order”) in response to this public health emergency that affects the operation of trial courts in Washington;

WHEREAS, pursuant to its authority to administer justice and to ensure the safety of court personnel, litigants, and the public, the Supreme Court ordered that Court operations are essential;

WHEREAS, in its Fourth Revised Order the Supreme Court recognizes the authority of all courts to conduct essential court operations, to include not only trials and other hearings, but also clerk’s office operations, facilities planning, technology improvements, and the general administration of justice;

WHEREAS, the Supreme Court’s Fourth Revised Order states that in all court operations, courts should follow the most protective public health guidance applicable in their jurisdiction, and should continue using remote proceedings for public health and safety whenever appropriate;

WHEREAS, this court has been granted authority to adopt measures to protect health and safety that are more restrictive than the Supreme Court Fourth Revised Order, as circumstances warrant, including by extending as necessary the time frames in that Order;

WHEREAS, the Supreme Court encourages courts to move toward conducting as much court business as can be done consistent with public health and safety; and states that courts should follow the most protective public health guidance applicable in their jurisdiction, based on current guidelines from the Centers for Disease Control, the Washington Department of Health or local health department;

NOW, THEREFORE, EFFECTIVE OCTOBER 15, 2020, UNTIL THIS ORDER IS RESCINDED OR MODIFIED, IT IS HEREBY ORDERED:

1. Everett Municipal Court will continue to remain open during this emergency, at least until further order of this Court. Staff are required to report to work unless otherwise directed. Staff who have underlying health issues or are feeling sick, running an elevated temperature, experiencing chills or muscle pain, experiencing a cough, sore throat, headache, new loss of taste or smell, or other respiratory problems are directed to remain at home and take leave in accordance with City policy. While at work staff are required to maintain social distancing requirements and follow emergency health directives, including the wearing of approved face covers, as ordered by the Presiding Judge.
2. The Probation Department shall continue to have telephonic/remote meetings with defendants, whenever possible. The Probation Department may continue to have face-to-face meetings, as necessary, if social distancing and other public health safety requirements can be met. Remote MRT classes may be changed to in-person classes if a course plan to maintain social distancing and other public health and safety requirements is approved by the Presiding Judge.
3. Previous orders suspending criminal jury trials are lifted. Jury trials shall be held in accordance with all applicable Supreme Court orders and this court's General Administrative Orders. Bench Trials may be specially set by the Court at the request of the parties. In person appearance is required for Bench Trials, except that witnesses may appear via video with the consent of the Court and parties.
4. Out-of-Custody Arraignments:

- a. Until further order of this court, arraignment dates for out of custody cases that are not DUI/Physical Control or DV cases may be scheduled up to 45 days out from the date of violation when notice is served on the defendant, in order to ensure that arraignment calendars do not exceed ten defendants per calendar. Good cause exists under CrRLJ 4.1 to extend the arraignment date for this purpose, and the new arraignment date shall be considered the “initial commencement date” for purposes of establishing the time for trial under CrRLJ 3.3(c)(1).
 - b. Unrepresented defendants are required to attend arraignments in person, unless telephonic appearance is approved by the Court in advance. Represented defendants may appear remotely with counsel.
 - c. The Court may increase or decrease arraignment calendar limits, for a particular calendar or by general Order, when necessary for compliance with current public health and safety guidelines from the Centers for Disease Control, the Washington Department of Health or local health department.
5. Show Cause, Prosecutorial Offer of Diversion (POD) review hearings and other probation hearings: In person appearance is required for Probation Revocation hearings. Telephonic/remote appearance is preferred for all other probation hearings, unless in person appearance is specified by the Court. Probation calendars shall be subject to a twenty defendant per calendar limit, except where cases beyond that limit are approved by the Court, for a particular calendar or by general Order, when necessary for compliance with current public health and safety guidelines from the Centers for Disease Control, the Washington Department of Health, or local health department. Personal appearance for future hearings is waived for any defendant who has fully complied with the terms of their POD agreement. The City may present an ex parte motion to dismiss any POD where all requirements have been completed.
6. Out-of-Custody Criminal hearings:
 - a. Pretrial calendars and out-of-custody readiness hearings shall be subject to a twenty-five defendant per calendar limit in order to ensure that the Court can enforce safe distancing for participants, staff and the public. In-custody defendants shall not count toward this calendar limit. Where necessary to

maintain these limits, initial case settings for pretrial and trial dates for out-of-custody defendants may be set beyond the time for trial limits in CrRLJ 3.3.

- b. Telephonic/remote appearance is preferred for pretrial hearings, readiness hearings, pretrial licensing hearings and trial call hearings. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters while this order is in effect. An attorney's signature on an order to continue constitutes a representation that the client has been consulted and agrees to the continuance, and attorneys are allowed to waive their clients' presence unless their presence is deemed necessary by the court.
- c. Ex parte review is authorized and preferred for agreed orders.
- d. In person appearance is required for Changes of Plea, entry of Court Monitored Deferrals, and entry of Deferred Prosecutions. These matters may only be heard on a case-by-case basis on pretrial/readiness calendars with prior Court approval. Otherwise, any such disposition shall be set to an available Monday morning Bench Trial/Motion calendar, subject to a ten defendant per calendar limit. PODs may be approved for entry remotely, if a signed Jury Trial/Speedy Trial waiver has been provided to the Court.
- e. The Court may increase or decrease the limits of defendants allowed on out-of-custody Criminal Hearings, for a particular calendar or by general Order, when necessary for compliance with current public health and safety guidelines from the Centers for Disease Control, the Washington Department of Health, or local health department.
- f. Based upon the Supreme Court's finding that the serious danger posed by COVID-19 is good cause to continue criminal trials, and constitutes an unavoidable circumstance under CrRLJ 3.3(e)(8), the time between the Supreme Court's May 29, 2020 Order and the next scheduled court hearing after October 15, 2020 shall be excluded when calculating time for trial. CrRLJ 3.3(e)(3).
- g. Based upon this Court's finding that COVID-19 continues to pose serious danger to court employees, participants and the general public, after October 15, 2020, if, based on an individual finding of good cause by the Court or in accordance with local court rule, a continuance is to a date that is past the date desired by either

party, the entire period of the continuance shall constitute an excluded period as defined by CrRLJ 3.3(e)(3) and CrRLJ (e)(8).

7. Competency hearings: Telephonic/remote appearance is preferred for out-of-custody competency hearings. In-custody competency hearings will continue to be heard on the jail calendar.
8. Motions: Telephonic/remote appearance is preferred, unless in person appearance is required by the Court. Motion calendars shall be subject to a ten defendant per calendar limit, except where cases beyond that limit are approved by the Court, for a particular calendar or by general Order, when necessary for compliance with current public health and safety guidelines from the Centers for Disease Control, the Washington Department of Health, or local health department. The following hearings are determined to be especially time-sensitive and shall have preference over other types of motion hearings:
 - a. Motions to review pretrial release conditions;
 - b. Protected person motions to rescind/modify No Contact Orders;
 - c. Any other emergency motion with the consent of the Court.
9. Order to Surrender Weapons compliance hearings: Firearms compliance hearings will remain as currently set and will continue to be set for review on the Wednesday motions calendar. If the Court finds the defendant not in compliance at the initial review hearing, in person attendance is required for any further firearm compliance hearings. Such hearings do not count toward the ten-defendant maximum for the Wednesday motions calendar.
10. Pretrial violation hearings: Hearings to address pretrial release conditions/alcohol monitoring violations may be specially set by the Court. Telephonic/remote appearance is preferred, unless in person appearance is required by the Court.
11. Mental Health Alternatives Program (MAP) hearings: MAP staffing will be conducted remotely until further order of the Court. Telephonic/remote appearance is preferred for MAP hearings, unless in person appearance is allowed or required by the Court. Participants must continue to abide by all other program requirements, including treatment, and must continue to contact the MAP liaison as required. In person appearance is required for MAP termination hearings.

12. Jail Calendars: Jail calendars will continue to be heard daily via video and shall be limited to a maximum of twenty defendants per calendar unless necessitated by the number of cases for arraignment. With the consent of the Court and subject to this limit, motions for release, TRO, and bail review may be heard on the jail calendar.
13. Administrative hearings: Administrative hearings (e.g. impound hearings, dog hearings, etc.) may be scheduled on a case-by-case basis by court order, as needed. In person appearance is required, unless otherwise agreed by the parties and authorized by the Court.
14. Infraction Hearings:
 - a. Contested Hearings: In person appearance is required for unrepresented respondents and for represented respondents intending to proceed with a full contested hearing. Such in person hearings shall be subject to a ten respondent per calendar limit and subpoenaed witnesses must appear in person.
 - b. Mitigation Hearings: Telephonic/remote appearance is preferred for mitigation hearings. Mitigation calendars and NVOL infraction/relicensing calendars shall be subject to a twenty respondent per calendar limit.
 - c. Telephonic/remote appearance is preferred for stipulated/continuance hearings with represented respondents.
 - d. Matters may be reset as needed by the Court to meet calendar limits, and calendar limits may be modified by the Court as needed. The time for hearing periods set out in IRLJ 2.6 are suspended and all continuances pursuant to this Order shall be excluded periods. Both mitigation and contested calendars are also available by mail, upon request.
15. Where court matters must be heard in person, social distancing and other public health measures must be strictly observed.
16. For any hearings and trials held remotely pursuant to this Order, the Court will provide notice of new hearing dates to the City, defense counsel, and unrepresented defendants. Defense counsel shall provide notice of new hearing dates to their clients.
17. Remote appearance will be accomplished telephonically or through Microsoft Teams. Microsoft Teams will be audio-only, unless otherwise requested and approved by the

Court. Microsoft Teams phone-in instructions and meeting ID numbers will be provided to attorneys by court staff.

18. Ex Parte No Contact Orders: The Court may enter an ex parte No Contact Order where a citation or complaint is filed with the Court and the Court finds probable cause for a domestic violence offense, stalking offense or harassment offense. Such order may be served upon the defendant by mail.
19. Other Ex Parte Orders: Agreed Orders of any kind may be presented for ex parte review. For consideration, such orders must be filed at least 48 hours prior to any pending court date. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters while this Order is in effect. An attorney's signature on an order to continue constitutes a representation that the client has been consulted and agrees to the continuance, and attorneys are allowed to waive their clients' presence unless their presence is deemed necessary by the court.
20. Bench warrants:
 - a. Judges in this court may exercise discretion in deciding whether a bench warrant should issue for failure to appear for a criminal court hearing or hearing on violation of conditions of release. However, in exercising such discretion, judges are required to consider the following before issuing a warrant: (i) Is a warrant necessary for the immediate preservation of public or individual safety? (ii) Is there a record that the subject of the warrant has received actual notice of the previously scheduled court hearing or reporting requirement? (iii) Is there a viable alternative for securing appearance such as the re-issuance of a summons or another means of notifying the subject that an appearance is required and re-setting the hearing date?
 - b. Judicial officers must give serious consideration to the risk of COVID-19 transmission whenever a person is arrested and placed in detention, including whether the subject of the warrant is in a high-risk category for exposure to COVID-19.
 - c. The facts supporting the issuance of a warrant must be current and recited on the record in open court.

- d. The provisions of CrRLJ 2.2(g) remain suspended for the duration of the Governor's state of emergency in response to the COVID-19 pandemic.
- e. For cases with outstanding bench warrants, unless the Court has issued a warrant in an amount exceeding \$5,000.00, or a case-specific exception is noted by the Court when issuing the bench warrant, any defendant with an outstanding warrant in this court may appear at the front counter to get a new court date and such warrant will be recalled. Warrant recall fees are waived while this order remains in effect.

DATED this 15th day of October 2020.



HON. AMY KAESTNER
PRESIDING JUDGE