

**IN THE POULSBO MUNICIPAL COURT**

---

IN RE THE POULSBO MUNICIPAL COURT  
AND THE PANDEMIC OUTBREAK OF THE  
CORONAVIRUS DISEASE 2019 (COVID-19)

**NO. 2020-4**  
**EMERGENCY ADMINISTRATIVE  
ORDER**

---

1. THIS ADMINISTRATIVE ORDER is being issued in response to the current pandemic outbreak of the Coronavirus Disease 2019 (COVID-19). Washington has been “ground zero” for this disease. As of today, there are over 2221 confirmed cases of the disease in Washington, including 20 confirmed cases in Kitsap County.
2. On February 29, 2020, Washington State Governor Jay Inslee declared a state of emergency due to the public health emergency posed by the spread of the coronavirus disease 2020 (COVID - 19).
3. On March 4, 2020, Chief Justice Debra Stephens of the Washington State Supreme Court adopted Order No. 25700-8-602, granting emergency authority upon all Washington courts to adopt, modify, and/or suspend court rules and orders, and to take further actions concerning court operations, as warranted to address the current public health emergency that affects operations of trial courts in Washington State; and
4. On March 13, 2020, Washington State Governor Jay Inslee ordered the closure of all public and private K-12 schools.
5. On March 13, 2020 the City of Poulsbo issued a Proclamation of Local Emergency. The proclamation allows the City to use all resources necessary to prepare for and respond to an outbreak and to adjust City policies and operations.
6. On March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency.
7. On March 16, 2020 Washington State Governor Inslee ordered a prohibition of gatherings of over 50 participants.
8. The Poulsbo Municipal Court is a very small court that requires litigants, attorneys, and court staff to work in extremely close quarters while attending court hearings. Social

distancing is not possible at the Poulsbo Municipal Court. In order to promote the public health goals identified by public officials, and promote the health and safety of users and staff at the court, it is necessary to modify operations and reduce in-person attendance at the Poulsbo Municipal Court during the declared public health emergency.

9. On March 20, 2020, Chief Justice Debra Stephens of the Washington State Supreme Court adopted Amended Order No. 25700-B-607;
10. On March 23, 2020, Washington State Governor Jay Inslee issued Proclamation 20-25, ordering all residents to stay at home or at their place of residence except to conduct or participate in essential activities, and/or (2) for employment in essential business services, effective March 25-April 6, 2020.
11. On March 16, 2020 this Court adopted Emergency Administrative Order 2020-1 regarding the operations of Poulsbo Municipal Court in light of the COVID-19 pandemic, followed by Amended Emergency Administrative Order 2020-2, adopted on March 24, 2020.
12. On April 29, 2020, Chief Justice Debra Stephens of the Washington State Supreme Court adopted the Second Revised and Extended Order Regarding Court Operations, Order No. 25700-B-618.
13. On May 5, 2020, Washington State Governor Jay Inslee issued Proclamation 20-25.3 adjusting and extending Proclamation 20-25 through May 31, 2020, ordering all residents to stay at home or at their place of residence except to conduct or participate in essential activities, and/or (2) for employment in essential business services, and/or to participate in activities permitted by said proclamation.
14. Given the significant number of identified and projected cases of the disease in Washington, the severity of the risk posed to the public, the recommendations of the Health Department, the requirements of Order No. 25700-B-607 and Order No. 25700-B-618 and the authority granted by said Orders, the current situation demands

immediate action by the Courts.

**PURSUANT TO** Order Nos. 25700-B-607 and 25700-B-618 of The Supreme Court of Washington, as Presiding Judge of the Poulsbo Municipal Court, in the interest of both public safety and public health during the COVID-19 public health crisis

NOW, THEREFORE, it is hereby –

ORDERED that effective immediately and until further Order of the Court –

1. All non-emergency civil matters shall be continued until after July 31, 2020, except those motions, actions on agreed orders, conferences or other proceedings that can appropriately be conducted by telephone, video, or other means that does not require in-person attendance and those matters included in Section 8 of this Order. The matters continued include but are not limited to the following:
  - A. Infraction hearings (both contested and mitigation). To effectuate these continuances, IRLJ 2.6(a), (b), (d), (e), and (f) shall be suspended. The Court will continue to accept written statements submitted by mail or email pursuant to IRLJ 2.6(c).
  - B. Impound of vehicle or vessel hearings
  - C. Impound of animal hearings.
2. All emergency matters, including civil protection and restraining order matters, that must be heard before July 31, 2020, must be heard by telephone, video or other means that does not require in-person attendance, unless impossible. Where court matters must be heard in person, social distancing and other public health measures must be strictly observed. Telephonic, video, or other hearings required to be public must be recorded, with the recording preserved for the record.
3. All criminal trials are suspended until after September 30, 2020. For all criminal trials suspended under this provision, September 30, 2020 will be the new commencement

date under CrRLJ 3.3.

4. All out of custody criminal matters already pending shall be continued until after July 31, 2020 except those motions, actions on agreed orders, conferences or other proceedings that can appropriately be conducted by telephone, video or other means that does not require in-person attendance or as otherwise provided by Sections 8 and 11 of this Order.

Arrestment on out of custody cases filed between March 19, 2020 and July 31, 2020 or the first appearance in court after that date shall be deferred until a date 45 days after the filing of charges. Good cause exists under CrRLJ 4.1, to extend the arrestment dates. The new arrestment date shall be considered the “initial commencement date” for purposes of establishing the time for trial under CrRLJ 3.3 (c)(1).

5. The court may enter ex parte no contact orders pursuant to 10.99.040, RCW 10.99.045, RCW 10.14.040, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation or complaint is filed with the court and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Personal service by law enforcement remains preferred, particularly for those cases where public or individual safety demands it. Where personal service is not required, service may be by law enforcement, including electronic service with acknowledgment by receipt, by process servers, by agreed service memorialized in writing, by publication or by mail. If parties have previously agreed to email service or opted into e-service in the case or other currently open related cases, service of temporary protection orders or reissuance/continuance orders by e-mail or e-service shall be sufficient. Before proceeding with a full hearing, the court shall require proof of service five days prior to the hearing. Ex parte orders may be served upon the defendant by mail. This provision does not relieve the prosecution of proving a knowing violation of such an ex parte order in any prosecution for violating the order. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.
6. The court has discretion to set hearing dates and extend temporary protection orders based

on the circumstances to reasonably allow for sufficient notice, remote appearance, and presentation of evidence, while avoiding unreasonable delay. Reissuance orders may also be extended.

7. All in custody criminal matters shall be continued until after July 31, 2020, with the following exceptions:
  - A. Scheduling and hearing of first appearances, arraignments, plea hearings, criminal motions, and sentencing hearings.
  - B. The court retains discretion in the scheduling of these matters, except that the following matters will take priority:
    - i. Pretrial release and bail modification motions
    - ii. Plea hearings and sentencing hearings that result in the anticipated release of the defendant from pretrial detention within 30 days of the hearing.
    - iii. Parties are not required to file motions to shorten time in scheduling any of these matters.
8. A continuance of these criminal hearings and trials is required in the administration of justice. Based upon the courts findings that the serious danger posed by COVID-19 is good cause to continue criminal jury trials and constitutes an unavoidable circumstance under CRrLJ 3.3(e)(8), the time between the date of this court's first Order, March 16, 2020 and the date of the next scheduled trial date are EXCLUDED when calculating time for trial. CrRLJ 3.3(e)(3).
9. Beginning June 1, 2020, the Court will begin an emergency modified court calendar as follows:
  - A. The first and third Wednesday of each month, from 8:30-9:30AM, will be for out of custody pre-trial hearings where the defendant is represented by private counsel.
  - B. The second and fourth Wednesday of each month, from 8:30-9:30AM, will be for out-of-custody probation hearings where the defendant is represented by private

counsel.

- C. The first and third Thursday of each month, from 9:00-11:00AM, will be for out of custody pre-trial matters where the defendant is represented by the public defender.
  - D. The second and fourth Thursday of each month from 9:00-11:00AM will be for out of custody probation matters where the defendant is represented by the public defender.
  - E. The first and third Wednesday of each month at 8:15AM will be for contested traffic hearings with counsel.
  - F. Every Wednesday at 10:00AM will be the in-custody criminal calendar for private and public defense, subject and pursuant to Section 6 of this Order.
  - G. Every Wednesday from 9:30-10:00AM shall be for bench warrant quash hearings.
  - H. Every Wednesday at 11:00AM will be for arraignment matters, including those that are DUI and Domestic Violence returns.
  - I. Every Thursday shall at 11:00AM will be arraignment matters, not including DUI and Domestic Violence returns.
  - J. Civil matters permitted under this Order shall be heard Wednesdays at 1:30PM
  - K. Traffic matters, other than those contested hearings with counsel, permitted under this Order shall be heard the fourth Wednesday of the month at 3:00PM.
  - L. All other in-custody matters, such as new arraignments and warrant returns shall remain as previously scheduled for 10:30AM daily as needed.
10. Under this emergency modified schedule there will be no more than 10 cases heard per calendar as determined by the clerk, and once this limit has been reached the clerk will reset any other matters in accordance with the other provisions of this Order. Priority in setting cases within this 10 case limit will be given to
- A. Arraignments involving charges of domestic violence, DUI, Physical Control,

violent offenses, sex offenses, harassment, or those with significant public safety concerns.

B. Pre-trial and probation matters where the parties notify the court at least one week prior that there is an agreed resolution, per Section 11 of this Order

C. Probation matters where there are new allegations of probation violations

11. During this modified emergency calendar period, the emergency rules adopted in the Order shall remain in effect, including those regarding speedy trial and speedy arraignment.
12. Any cases wherein there is a case resolution (i.e. guilty plea, entry of pre-trial diversion agreements, entry of deferred prosecutions ,compromise of misdemeanors) or where there is an agreed motion where the parties have reached an agreement short of resolving a case but desire to have a court order entered (i.e. modification of conditions of release, modification of other court orders such as sentences and commitments) which have not been scheduled by the court, or for which the parties seek to have heard on an earlier calendar may be scheduled at the discretion of the court with a minimum of one week notice to the court and subject to the terms outlined in Section 12 of this Order. Such hearings for out of custody matters may only be scheduled on Wednesdays for private counsel or Thursdays for the public defender. Such hearings for in-custody matters may be heard only on Wednesdays for both private and public counsel.
13. The City of Poulsbo Prosecutor's Office and many of the law firms, including the contracted public defender are operating with limited daily personnel in their facilities. The Court is also operating with limited daily personnel in the building. The Court is instantaneously being re-designed from in-person hearings to Zoom video conferencing hearings with little advance preparation or notice. This transformation of the way the Court conducts business will take time to fully implement. Additionally, hearings held by telephone or video conferencing can be more time consuming than those in person. It will waste precious court resources to schedule hearings authorized by Section 11 of this Order and thereafter learn that the Prosecutor lacks their own resources to be prepared for a

particular hearing or court date. It will also waste precious court resources to have hearings scheduled under this Order and not have the necessary paperwork or forms completed, signed and filed in advance. Accordingly, it is critical that all parties have fully communicated with each other in advance of all hearings authorized by this Order. All necessary paperwork, including forms, must be thoroughly prepared and completed in advance. Said completed paperwork for the calendars referenced in Sections 8 and 11 of this Order must be to the City Prosecutor's Office no later than the Monday prior to the hearing for approval and signature and then filed with the Court by defense no later than noon on the Tuesday prior to the scheduled hearing. Counsel is highly encourage to utilize digital/electronic signatures per the Court's Emergency Order 2020-4, and to provide instruction to their client on how to affix digital signatures to documents, particularly prior to their hearing where they may be required to affix their signature on court documents during the hearing such as sentencing paperwork. Digital signature instructions can be found on the court's website at <https://cityofpoulsbo.com/poulsbo-municipal-court/>

14. Any hearings authorized by Section 11 of this Order, shall be scheduled by the Prosecutor after consultation with defense counsel. The Court will not schedule any hearings authorized under Section 11 of this Order upon request of defense counsel. Defense counsel are not to contact the Court to schedule such a hearing.
15. Any out-of-custody criminal case for which counsel seeks an Emergency Motion to accelerate the court date, and for which the Prosecutor declines to schedule a hearing for pursuant to Section 11 of this Order, counsel may submit a written ex parte request which will be reviewed in chambers showing good cause for a hearing date to be accelerated from the continued hearing date. The Court will thereafter notify the party of the Court's decision. For the purposes of this Order only, "emergency" means "an unforeseen combination of circumstances or the resulting state that calls for immediate action."<sup>1</sup>
16. The Court finds that obtaining signatures from defendants for orders continuing existing

---

<sup>1</sup> *Webster's Third New International Dictionary* 740 (2002) (emphasis added).

matters places significant burdens on attorneys, particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, this Order serves to continue those matters without the need for further written orders. Additionally:

- A. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters through July 31, 2020.
- B. Courts shall provide notice of new hearing dates to defense counsel and unrepresented defendants.
- C. Defense counsel shall provide notice to defendants of new court dates

17. Bench warrants may issue for violation of conditions of release from now through July 31, 2020. However, no bench warrant will issue for failure to appear in person for court hearings, unless necessary for the immediate preservation of public or individual safety.

18. Motions for Pre-Trial Release:

- A. The court shall hear motions for pre-trial release on an expedited basis without requiring a motion to shorten time, but only if victims or witnesses can participate on an expedited basis. Const. Art 1 (section 35).
- B. The court finds that for those identified as part of a vulnerable or at-risk population by the Centers for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to supply additional briefing on COVID-19 to the court. For all other cases, the COVID 19 crisis may constitute a “material change in circumstances” under CrR/CrRLJ 3.2(k)(1) and “new information” allowing amendment of a previous bail order or providing different conditions of release under CrRLJ 3.2(k)(1), but a finding of changed circumstances in any given case is left to the sound discretion of the Court.
- C. Parties may present agreed orders for release of in-custody defendants which will be signed expeditiously.
- D. If a hearing is required for a vulnerable or at-risk person as identified above, the

court shall schedule such hearing within five days. The court is strongly encouraged to expedite hearings on other cases with due consideration of the rights of witnesses and victims to participate.

19. The Court will allow telephonic or video appearances for all scheduled criminal hearings between now through July 31, 2020, unless impossible. For all hearings that involve a critical stage of the proceedings, the court will provide a means for the defendant to have the opportunity for private and continual discussion with his or her attorney. Telephonic, video or other hearings required will be recorded, with the recording preserved for the public.
20. Zoom video hearings will be given priority over telephonic hearings, given the Court's inability to use the telephone to communicate with other personnel while a person is appearing telephonically. Telephonic hearings will be limited to those that do not require entry of a guilty plea, pre-trial diversion agreement, or sentencing. If a user is unable to appear by Zoom, the user must provide a telephone number to the clerk at the time of scheduling the hearing. The party must be available for the court to call for the duration of the scheduled calendar on the scheduled hearing date. The Court will telephonically contact individuals one case at a time after completing cases heard by Zoom. If the Court at the hearing is unable to contact a party choosing to appear telephonically, the hearing will be stricken.
21. "I Can't Afford to Pay" criminal motions will be heard ex parte
22. Defendants shall still be required to comply with any terms of probation during this time period.
23. Bench warrant quash hearings will be conducted by telephone or video only. The defendant can schedule a bench warrant quash hearing no later than 3pm on Tuesday to be heard via video or telephonically on Wednesday at 9:30AM. Hearings will be set to be heard via video, unless that option is not feasible or available, and a telephonic hearing will be set. However, pursuant to Section 20 of this Order, video hearings will take priority. The

defendant must provide a valid telephone number and email address. The court will hold the hearing on the record in open court. During this hearing the defendant must provide a current and valid address. The court will mail notice of the next court date.

24. Notices will be mailed to the parties of the next scheduled hearing date via US mail and/or via electronic mail if the court has the email on file. Any person needing to update their mailing address or email address should contact the court clerk at (360) 779-9846.
25. The Prosecutor and Public Defender shall remain available and on-call through the duration of this Order.
26. Litigants and attorneys are encouraged to contact the Court concerning court dates.
27. Washington's judicial officers have broad discretion "to preserve and enforce order in the courtroom and to provide for the orderly conduct of its proceedings."<sup>2</sup>

Just as trial court judges are permitted to exclude distracting individuals, they are permitted to impose reasonable restrictions on the public's manner of entry so as to minimize the risk of distraction or impact on the proceedings<sup>3</sup>

28. In order to ensure that appropriate six foot social distancing occurs within Poulsbo Municipal courtrooms pursuant to this Order, the Court and its clerks may require any individual inside a courtroom to leave the courtroom until such time as their individual case is called for a hearing.
29. The Court declines to engage in a *Bone-Club*<sup>4</sup> analysis because the Courts are not closing courtrooms to the public.<sup>5</sup>
30. All persons coming into the courtroom are required to use hand sanitizer immediately prior to entering the court area. All individuals shall practice, the six-foot social distancing requirements as recommended by health experts. If you are sick, do not come to court; notify your attorney if you are represented. If you represent yourself, notify the court by phone (360) 779-9846, email ([poulsbocourt@cityofpoulsbo.com](mailto:poulsbocourt@cityofpoulsbo.com)), or fax (360) 779-1584

---

<sup>2</sup> *State v. Lormor*, 172 Wn. 2d 85, ¶12 (2011).

<sup>3</sup> *State v. Gomez*, 183 Wn. 2d 29 ¶13 (2015).

<sup>4</sup> *State v. Bone-Club*, 128 Wn. 2d 254 (1995).

<sup>5</sup> *Gomez*, *supra*.

prior to your scheduled hearing.

31. Litigants and attorneys who feel sick should not enter the Poulsbo City Hall or Poulsbo Municipal Courtroom. Anyone deemed by the Court or staff to exhibit illness symptoms may be ordered to leave the building.
32. This Emergency Administrative Order covers all activities occurring within the Poulsbo Municipal Court, located in the Poulsbo City Hall, 200 Ne Moe Street, Poulsbo, WA.
33. No part of this Order suspends the defendant's right to a public trial, or the general right of the public to be present at court proceedings under the constitutional provisions that require the open administration of justice.
34. This Order may be modified or extended as the Court continues to evaluate the impacts of the COVID-19 public health crisis on the safety of the public, Court partners, and employees.
35. The court offices will remain open via telephone, email, and fax. However, the court counters are closed until further notice.
36. The Court will resume regular operations no sooner than Monday August 3, 2020.
37. This Order is effective May 1, 2020 will continue in full force and effect until terminated by separate order of the Court.
38. This Order supersedes the Poulsbo Municipal Court Emergency Administrative Order No. 2020-2 issued March 24, 2020.

Dated – May 27, 2020



Jeffrey L. Tolman, Presiding Judge  
Poulsbo Municipal Court