

IN THE SUPERIOR COURT
FOR THE COUNTY OF SKAGIT

IN THE MATTER OF) ADMINISTRATIVE ORDER
EMERGENCY RESPONSE TO COVID-19) NO. 21-4
OUTBREAK)

WHEREAS, an identified public health emergency exists due to the current outbreak of COVID-19 virus, which emergency has been previously identified in this court's Emergency Administrative Orders, No. 20-1 through and including No. 21-3; and

WHEREAS, Skagit County, Washington State, and the nation in general are still in a state of pandemic related to the COVID-19 virus, despite increased vaccinations against the virus, due in part to highly infectious variants of the virus; and

WHEREAS, the Governor of Washington has declared a state of emergency and issued numerous proclamations regarding health and safety measures in response to the pandemic; and

WHEREAS, the Washington State Secretary of Health still has a masking order requiring masking of all unvaccinated individuals in public indoor settings and requiring all people, regardless of vaccination status, to wear masks in certain settings such as correctional facilities, public transportation, and health care environments; and

WHEREAS, the Department of Labor and Industries is requiring employers to ensure unvaccinated employees wear masks while working indoors and that employers verify vaccination status of employees who request to remove masks while working indoors; and

WHEREAS, this court incorporates by reference all of its findings set forth in its previous administrative orders described above and now adopts an order pursuant to the State Supreme Court's Order No. 25700-B-658 to further restrict this court's operations in the interest of public health and safety,

WHEREAS, the court recognizes the compulsory nature of hearings and trials and that participants often sit in the courtrooms for extended periods of time during court appearances, which poses an involuntary risk of transmission of the virus for many individuals in the courtroom if precautions are not taken;

NOW, THEREFORE, PURSUANT TO THE court's authority to administer justice and to ensure the safety of litigants, members of the public, court staff, attorneys, commissioners, and judges;

IT IS HEREBY ORDERED THAT:

1. **EXCLUSION DUE TO ILLNESS OR COVID-19 EXPOSURE.** Anyone exhibiting the below-listed symptoms that are not caused by another condition SHALL NOT enter Skagit County Superior Court's courtrooms or offices:
 - Fever
 - Chills
 - Cough
 - Recent loss of taste or smell
 - Shortness of breath or difficulty breathing
 - Fatigue
 - Congestion or runny nose
 - Nausea or vomiting
 - Headache
 - Sore throat
 - Muscle pain or body aches
 - Diarrhea

Anyone who had a positive COVID-19 test for active virus within the past ten days or who has been told within the past 14 days to self-monitor, self-isolate, or self-quarantine for concerns about COVID-19 infection SHALL NOT enter Skagit County Superior Court's courtrooms or offices.

Further, anyone who has within the past 14 days had contact with a person who had COVID-19 or COVID-like symptoms not attributable to another condition SHALL NOT enter Skagit County Superior Court's courtrooms or offices *unless* the potentially exposed person is fully vaccinated against COVID-19 *and* has not exhibited any of the above-listed symptoms since said exposure. Contact is defined as being within six feet or closer for more than 15 minutes within a 24-hour period or having direct contact with fluids from a person with COVID-19 or suspected COVID-19.

2. **MASKING AND PHYSICAL DISTANCING.** Due to the mandatory nature of most court appearances, that hearings often involve a prolonged period of time in an enclosed space, and the continued spread of COVID-19, particularly in light of

the delta variant, the court requires masking and physical distancing in all of its courtrooms and during appointments with the Courthouse Facilitators.

Face Coverings: People attending court proceedings shall be masked prior to entering the courtrooms. Masks must adequately cover the nose and mouth. Individuals who are unable to wear a mask due to medical reasons may, prior to entering the courtroom, request a reasonable accommodation under the Americans with Disabilities Act (ADA) from Superior Court Administration. Unless their physical presence is required, individuals who refuse to wear masks may attend via remote appearance. Due to distancing of the witness stand and plexiglass installed thereupon, witnesses are permitted to remove their masks when providing testimony and seated in the witness stand.

Physical Distancing: People attending court proceedings must sit in designated spots and no other location so as to comply with physical distancing. Exceptions may be permitted upon advance request to the judge via court staff that would accommodate members of the same household or fully vaccinated individuals, for whom different distancing requirements apply. Anyone who refuses to physically distance as directed by the court or court staff may attend via remote appearance.

Some aspects of masking and physical distancing may be modified during jury and in-person bench trials upon advance order of the trial judge.

3. **JURY TRIALS.** Jury trials may be conducted on all types of cases. All confirmed jury trials will be stacked in order of priority, to be determined by the court by 9:00 a.m. the Friday before trial.

Prior to trial, all litigants for jury trials must review and abide by Superior Court's "COVID-19 Jury Trial Protocol" and "In-Person and Hybrid Trial Protocol and Procedures." Those procedures are posted on the court's website at:

SkagitCounty.net/SuperiorCourt/trialinfo.htm

Upon consultation with the parties prior to trial, the judge presiding over a jury trial has the discretion to modify the masking and physical distance requirements as detailed in Paragraph 2 to allow individuals who show proof or attest to full vaccination from COVID-19 to remove their masks at designated points during trial. Unless directed by the trial judge that they may unmask, all participants in jury trials shall wear face masks unless providing testimony from the witness stand.

4. **BENCH TRIALS.** Bench trials must be confirmed five (5) days before the trial. The following types of cases shall be presumed to be tried with witnesses and attorneys appearing physically in the courtroom unless a motion (by counsel or the court) is granted for some or all parties and witnesses to appear remotely:

- adult criminal
- juvenile offender
- cases under the Involuntary Treatment Act
- termination of parental rights, and
- Title 13 guardianship

Those motions will be considered on a case-by-case basis determination of due process and safety considerations. *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L.Ed. 2d 18 (1976). Protocols and procedures for in-person and hybrid bench trials must be followed throughout those trials. They are available on the court's website at:

SkagitCounty.net/SuperiorCourt/trialinfo.htm

Any other types of bench trials are presumed to take place remotely with witnesses and attorneys appearing on video via Zoom. "Remote Bench Trial Protocols and Procedures" and other related documents are posted on the Superior Court's website at:

SkagitCounty.net/SuperiorCourt/trialinfo.htm

5. **COURT CALENDAR/SCHEDULE.** The court adopts the schedule that is located on its website at SkagitCounty.net/SuperiorCourt at the link listed as the "Weekly Court Calendar."

Unless otherwise indicated in this order, parties shall note motions onto these calendars pursuant to Local Court Rules.

6. **REMOTE APPEARANCES.** The court will continue to employ video and telephonic access for all hearings and proceedings. The court will post a daily docket on its website providing video and telephonic information for every calendar at:

<https://SkagitCounty.net/SuperiorCourt/documents/schedule/courtroomschedule.pdf>

This may also be found on the court's website at [SkagitCounty.net/Superior Court](https://SkagitCounty.net/SuperiorCourt), posted as the "Daily Court Schedule."

Due to the continued spread of COVID-19, and a county vaccination rate below the state average, the court cannot accommodate all participants and observers in person. Therefore, unless otherwise specified in this order, all hearings shall occur through remote appearances.

Exceptions may be made for parties who: request to appear in person because they are using the services of an interpreter (despite availability of remote interpretation); are granted an ADA accommodation; do not have the means to access court through video or phone, or; who have advance permission of the court. Members of the public may observe court hearings and trials over video or phone.

The court may provide a “breakout room” to facilitate confidential discussions with counsel when participants appear remotely.

Telephonic appearances are also allowed in all non-trial matters. The court strongly discourages telephonic appearances for attorneys or for individuals who are providing testimony.

Remote participants shall follow the remote appearance etiquette as posted on the court’s website. Appropriate virtual backgrounds may be used to protect the privacy of court participants.

Due to the additional time required to conduct remote hearings and space constraints, calendar caps have been applied to all court calendars.

CRIMINAL CASES

7. **CRIMINAL MOTIONS.** Criminal motions with briefing and/or testimony will be heard Monday mornings at 9:30 a.m. at the Skagit County Criminal Justice Center (SCCJC) courtroom. These hearings will be noted with nine court-days notice, absent special circumstances granting a hearing on shortened time. Motion hearings with out-of-custody defendants shall be conducted remotely unless testimony is required. Testimony may be provided remotely. The SCCJC will transport any in-custody defendants to the calendar at or after 10:00 a.m.
8. **OTHER CRIMINAL HEARINGS.**
Out-of-Custody Arraignments: Out-of-custody arraignments will be heard on Tuesday mornings at 9:30 a.m. These hearings will be conducted by video with telephonic connection available. The court will accept electronic signatures on the acknowledgment of rights and any associated scheduling and no-contact

orders pursuant to the Supreme Court's order noted above and any replacements thereto.

Regular Calendars. Other than out-of-custody arraignments, all regularly scheduled criminal dockets will be heard at the SCCJC courtroom. The criminal calendars will be a combination of cases of in-custody and out-of-custody defendants. Out-of-custody defendants shall appear remotely unless they are appearing for a plea and/or sentence or they do not have the means to appear remotely. To limit the number of people in the courtroom, the court places a cap of five out-of-custody plea and/or sentencing hearings per calendar.

Interpreters: Other than substantive motions hearings or trials, all cases requiring interpreters shall be scheduled for Thursdays at 1:30 p.m. A Spanish-language interpreter is automatically scheduled for that calendar. In addition to being set on the Thursday afternoon calendar, cases requiring interpreters for languages other than Spanish require a request for interpreter services pursuant to the court's Language Access Plan.

In-Custody Defendants. All in-custody defendants have the option to appear remotely if so requested.

Agreements. The parties are encouraged to work in concert to submit proposed agreed orders on all pre-trial criminal matters that have been scheduled but do not have ongoing contested issues that require hearing.

9. **EX PARTE NO CONTACT ORDERS.** The court may enter ex parte no contact orders pursuant to RCW 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. 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 the court to extend ex parte orders beyond the initial period until a hearing can be held.
10. **SIGNATURES.** The court finds that obtaining signature from defendants for orders continuing existing matters places significant burdens on attorneys, particularly those who must enter correctional facilities to obtain signatures in person. Therefore, for all matters covered in Paragraphs 7 – 8 and 12, defense counsel is not required to obtain signatures from defendants/respondents on

orders to continue criminal matters until further notice. Defense counsel shall provide notice to defendants/respondents of all new court dates.

11. **MOTIONS FOR PRE-TRIAL RELEASE.** Motions for bail reduction, release on personal recognizance, and temporary release shall be heard on shortened time if notice has been given to opposing counsel by noon two court days before the scheduled hearing.
12. **JUVENILE OFFENDER MATTERS.** With the exception of entry of a guilty plea, sentencing, and probation violation hearings, all hearings shall be conducted remotely. First appearances after detention will be heard on the ex parte calendars on the day following the juvenile's restraint unless that falls on a Thursday, at which point the appearance will be made on the regular juvenile calendar.

CIVIL CASES

13. **CIVIL MOTIONS.** This paragraph applies to general civil motion hearings, including family and juvenile law, not otherwise addressed in this order.

Agreed Orders. Agreed civil matters are decided on the pleadings and submitted on the daily ex parte calendar.

Non-Agreed Matters. Matters that are not agreed shall be noted onto the appropriate calendar as found on the court schedule.

14. **EX PARTE CALENDAR.** No matters involving in-person appearances shall be heard on the ex parte calendar except as indicated in Paragraph 6. All ex parte hearings shall be conducted remotely. All ex parte applications shall be filed with the Skagit County Clerk's Office. Similarly, all proposed ex parte orders shall be submitted to the Clerk's Office.

15. **PROTECTION AND RESTRAINING ORDERS.**

Temporary Emergency Orders. Hearings on temporary emergency orders shall take place on the ex parte calendar the day the petition is filed or the next court day as provided by statute. Parties requesting temporary emergency orders shall appear remotely.

Subsequent Hearings. The court will liberally grant respondents' requests for continuances to effectuate preparation, including acquisition of counsel, with the

provision that the existing temporary order will remain in effect during any period of continuance. The parties and their witnesses shall appear remotely.

16. **PROPOSED ORDERS.** Except for the ex parte calendar, all proposed orders shall be submitted to Court Administration at least two (2) court days prior to the scheduled hearing either by delivering a hard copy or through email.

Hard Copies. When delivering in person or by mail, the submitting party shall attach a cover sheet to the order including the date and time of the scheduled hearing and the name of the party proposing the order.

Email. Emailed submission of proposed orders must be sent to proposedorders@co.skagit.wa.us The attached proposed order shall bear the name of the case and the cause number. The subject line of the email shall include the case name, cause number, and date and time of the scheduled hearing. The email shall also indicate the name of the party submitting the proposed order.

Ex Parte Orders. Proposed orders for the ex parte calendar shall be filed with the Skagit County Clerk's Office according to their procedures and not sent to the proposed orders email address or Court Administration.

17. **LIMITATION ON CIVIL MATTERS.** Where Governor's proclamations suspend filings of residential unlawful detainer hearings or orders for payment on writs of garnishment of consumer debt, the court will also not hear such matters.

Any motion not in compliance with the limitations set forth in this order will be stricken.

18. **TERMINATION OF PARENTAL RIGHTS.** The court finds that the COVID-19 pandemic is good cause under RCW 13.34.145 (5)(a) not to order DCYF to file a petition to terminate parental rights.

19. **ELECTRONIC FILING.** Compliance with GR 30(b)(1) and (d)(1) is waived during the period of this administrative order. The Clerk is authorized to accept electronic filing of documents under a policy adopted by the Clerk. Service and notice requirements to opposing parties are unaffected.

20. **RESERVATION.** The court reserve the right to modify or cancel any court calendar upon short notice to accommodate any concerns regarding courtroom crowding and to facilitate reduction in courtroom population.

21. **SUSPENSION OF RULES.** This order modifies or suspends any and all court rules, both Local Court Rules and State Court Rules, which are inconsistent with the terms set forth herein.

22. **CONFLICTING ORDERS.** In the event that this administrative order conflicts in any way with the Washington Supreme Court's orders now or hereafter issued, the Supreme Court's orders shall prevail. To the extent this order may conflict with this court's administrative orders referenced above, this order shall prevail. This order supersedes all prior administrative orders issued to address the COVID-19 emergency.

23. **EFFECTIVE DATE.** This order becomes effective upon signing and shall remain in effect until modified or terminated by court order.

DATED this 23rd day of July, 2021.



Laura M. Riquelme
Presiding Judge