

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

In the Matter of Implementing )  
Amended Chief Justice Order ) PRESIDING JUDGE ORDER NO. 2001-30000  
No. 20-006 in Certain Criminal )  
Proceedings ) ORDER RE CRIMINAL PROCEEDINGS  
) DURING COVID-19 PANDEMIC  
)

On March 8, 2020, Oregon Governor Kate Brown issued Executive Order 20-03 declaring that the COVID-19 virus created a threat to public safety and health and constituted a statewide emergency. On March 11, 2020, the World Health Organization declared the COVID-19 virus to be a pandemic of global proportions. On March 13, 2020, U.S. President Donald Trump declared a national state of emergency related to the COVID-19 virus. On March 23, 2020, Governor Brown issued Executive Order 20-12 requiring Oregonians to stay at home and closing specified businesses.

On Monday, March 16, 2020, Oregon Supreme Court Chief Justice Martha Walters issued Order No. 20-006 imposing Level 3 restrictions on court operations due to the Governor's emergency declaration regarding the COVID-19 virus. On March 27, 2020, Chief Justice Walters issued Amended Order No. 20-006 ("the Amended CJO"), which extended the Level 3 restrictions and postponed most trials and nonessential hearings until after June 1, 2020. The Amended CJO is designed to slow the spread of the COVID-19 virus and to minimize health risks to court personnel, litigants, representatives, and others who come to courthouses, while meeting the courts' obligations to the public. The restrictions imposed under the Chief Justice's orders may be extended beyond June 1, 2020, depending on the circumstances surrounding the COVID-19 virus. The Amended CJO gives the Presiding Judge of each Circuit Court authority to determine whether certain criminal law proceedings should be held during the Level 3 restrictions.

The conditions described above constitute good cause for delaying certain proceedings or modifying procedures in certain criminal cases. Paragraph 4 (a)(2) of the Amended CJO authorizes the Presiding Judge to order that a certain proceeding may be held while the Level 3 restrictions are in place if the Presiding Judge determines that the proceeding should be held; that it can be conducted by remote means or by maintaining sufficient social distancing for any participants appearing in person; and that other reasonable precautions can be taken to protect the health of the participants.

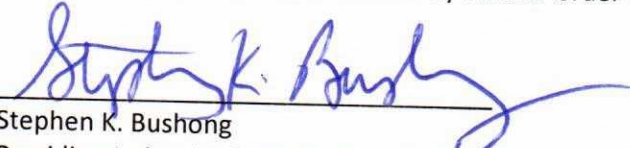
Accordingly, for the reasons stated above, I hereby ORDER that, during Level 3 restrictions, in addition to the proceedings expressly permitted by the Amended CJO, the following proceedings may be conducted with the limitations described below:



1. Out-of-custody misdemeanor and felony arraignments may be held in person while the Level 3 restrictions are in effect in the cases listed in Attachment 1 to this order. While operating under Level 3 restrictions, defendants being arraigned in felony cases may appear by telephone pursuant to ORS 131.045 and 135.030 if the parties stipulate to telephonic appearance. The defendant must be provided an opportunity to consult confidentially with defense counsel during the proceeding if requested. All other out-of-custody arraignments will be delayed or postponed; counsel will be appointed at the time of the arraignment.
2. Out-of-custody misdemeanor plea hearings and civil compromise hearings may be held with parties appearing remotely. For cases in which a defendant would be sentenced to formal supervision or conditions requiring in-person assistance of a probation officer, treatment provider, or other entity, sentencing may be set over until a time when the outside agencies are operational for those tasks.
3. Out-of-custody felony plea hearings may be held with defendant and counsel appearing in person maintaining social distancing if, in the Presiding Judge's discretion, holding the hearing while the Level 3 restrictions are in effect best serves the public interest.
4. In-custody substitution hearings involving a breakdown of communication or when requested by defendant may be held in-person observing social distancing; counsel may appear remotely. In misdemeanor cases, the CPC judge or the CPC judge's designee will hear the matter; in felony cases, the hearing will be held before the Chief Criminal Judge or designee. Substitutions in cases involving actual conflicts will be held in the manner prescribed by the Chief Criminal Judge.
5. Modification of release hearings in DV cases may be held when requested by the victim. Parties and victim must appear in person. In misdemeanor cases, the hearing will be held on Thursdays in JC2. In felony cases, the hearing will be assigned by the Presiding Judge off the short matter docket.
6. Requests to lift a warrant in misdemeanor cases as allowed by CPC rules may be heard by the CPC Judge or designee. Parties may appear remotely, defendants must be present on phone.
7. Requests to lift a warrant in felony cases may be decided by the Presiding Judge *ex parte* if stipulated or unopposed.
8. Motion hearings, including requests for in-camera inspection and other hearings for which the defendant's presence is not required may be conducted remotely, as assigned by the CPC Judge (misdemeanor cases) or Presiding Judge (felony cases).
9. Treatment Court hearings as set by the appropriate treatment court judge may be held as needed; hearings to be conducted remotely if possible. Social distancing required for any in-person hearings.
10. Treatment First scheduling/docket management hearings may be held, with defendants and counsel appearing by telephone whenever possible, to set future court dates.
11. Case management hearings in M11 cases already scheduled with the Chief Criminal Judge or designee, or those set in new in-custody cases, may be held. Parties are to appear remotely.
12. Judicial Settlement Conferences (JSCs) for in-custody defendants may be held with defendants and counsel appearing in person where both attorneys represent to the court that they feel the JSC is reasonably likely to directly lead to the release of the defendant or the resolution of the case.
13. Any other proceeding that the Presiding Judge determines should occur while Level 3 restrictions are in effect that can be conducted by remote means and/or by maintaining social distancing, and other reasonable precautions are available to protect the health of the participants.

This order takes effect immediately and shall remain in place until amended by further order or terminated by this court.

DATED this 10<sup>th</sup> day of April, 2020.

  
 Stephen K. Bushong  
 Presiding Judge, Multnomah County Circuit Court

## ATTACHMENT 1

1. All cases designated as “Constituting Domestic Violence,” including contempt of court related to violating a restraining order or other protective order;
2. All Class A & Class B felonies, except for charges under ORS 475.752 - 475.884, ORS 475.894 - 475.904, and ORS 475.912 - 475.920 and any offense listed in ORS 161.705(1)(b).<sup>[1]</sup>
3. Criminal Mistreatment in the First Degree or Criminal Mistreatment in the Second Degree;
4. Bribing a Witness or Tampering with a Witness;
5. Custodial Interference in the Second Degree;
6. Subjecting Another Person to Involuntary Servitude in the Second Degree;
7. Rape in the Third Degree, Sodomy in the Third Degree, Purchasing Sex with a Minor, Sexual Abuse in the Third Degree, Sexual Abuse in the Second Degree, Online Sexual Corruption of a Child in the Second Degree, Contributing to the Sexual Delinquency of a Minor, Custody, Felony Public Indecency, Felony Unlawful Dissemination of an Intimate Image, Unlawfully Being in a Location Where Children Regularly Congregate, Encouraging Child Sexual Abuse in the Second Degree, Encouraging Child Sexual Abuse in the Third Degree, Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree, Invasion of Personal Privacy in the Second Degree, or Invasion of Personal Privacy in the First Degree;
8. Stalking or Violating a Court’s Stalking Protective Order; or
9. An attempt to commit any offense listed in 1(c) to 1(h).

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<sup>[1]</sup> Drug offenses that are to be arraigned are Delivery or Manufacture of Methamphetamine under 475.886 to 475.892; Unlawful Delivery to Minors under 475.906 to 475.907; Causing another person to ingest a controlled substance under 475.908; and Application of controlled substance to the body of another person under ORS 475.910.