District Court of the State of Washington
for Snohomish County

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Administrative Order 21 – 01

Snohomish County District Court
Emergency Order

On February 29, 2020 Washington State Governor Jay lnslee declared a state of emergency due to the public health emergency posed by the spread of the coronavirus (COVID - 19). On March 4, 2020 Chief Justice Debra Stephens of the Washington State Supreme Court adopted Order No. 25700-B-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."

On March 11, 2020 the Governor imposed additional restrictions prohibiting gatherings of more than 250 people within King, Snohomish, and Pierce County due to the danger of continued spread of the virus and the increasing danger the virus presents to the health care system in the region;

On March 13, 2020 the Governor ordered the closure of all schools in the State and on March 16, 2020 ordered closure of all bars, restaurants and clubs in the State in addition to limiting gatherings to no more than 50 people.

On March 18, 2020 the Supreme Court issued Court Order 25700-B-606. On March 19, 2020 the Supreme Court issued Corrected Order 25700-B-607 and on March 20, 2020 issued Amended Order 25700-B-607.

On March 23, 2020 the Governor issued a Stay Home, Stay Healthy Proclamation that closed all non-essential business through April 24, 2020. On April 2, 2020 this order was extended through May 4, 2020.

On April 13, 2020 the Supreme Court amended and extended Amended Order 25700-B-607 through May 4, 2020 by entering Order 25700-B-615.

On April 29, 2020 the Supreme Court entered a new order extending and amending previous orders: Second Revised and Extended Order Regarding Court Operations No. 25700-B-618.

On May 28, 2020 the Supreme Court entered Third Revised and Extended Order Regarding Court Operations No. 25700-B-625. On May 29 the Supreme Court entered Amended Third Revised and Extended Order Regarding Court Operations No. 25700-B-626 that corrected some minor issues in Order 625.

Between May 28, 2020 and October 13, 2020, the Supreme Court entered numerous orders regarding court operations including 25700-B-631, 640, 642, and 646.

On November 12, 2020 one of the outside agencies that allowed the court to use its facilities for jury orientation and selection cancelled its agreement with the court citing the rapid rise in COVID cases.

On November 15, 2020 Governor Inslee issued Proclamation 20-25.8, effective at 11:59 PM on November 16, 2020, and expiring on December 14, 2020 at 11:59 PM. The Proclamation severely restricted public and private gatherings as a result of a spike in cases statewide. The Proclamation is consistent with the United States Centers for Disease Control and Prevention and the Washington State Department of Health (DOH) recommended implementation of community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing in smaller gatherings.

As of November 16, 2020 the rolling two-week average of reported cases per 100,000 population in Snohomish County was trending steadily upwards (from 124.9 to 280.8), and was more than double any previous peak (March peak 129.1 and November peak 280.8) and stood at over ten times the target of 25 cases per 100,000 population. As a result, this Court suspended all jury trials through December 15, 2020.

On November 18, 2020 the Snohomish County Superior Court suspended all jury trials through January 8, 2021. As of the week ending November 28, 2020 the Snohomish County rolling two-week average of reported cases per 100,00 continued to climb precipitously and stood at 368 with no signs of slowing. The Snohomish County positivity rate (the percentage of those testing positive) was on a steady rise and stood at 9.7%. As a result, this Court suspended all jury trials through January 8, 2020.

As of the week ending January 2, 2021 the rolling two-week average of reported cases per 100,000 continues to be at dangerously high levels of 350. There was a slight downturn from the November-December peak numbers, but the most recent two-week trend demonstrates an increase in cases (from 329 to 350). The reported weekly rate of deaths from the most recent available information (through December 12, 2020) continue to be at all time highs for the previous three-week period. The positivity rate remains high at 8.6%.

Accordingly, pursuant to the authority given this Court through Washington State Supreme Court Orders 25700-B-602 through B-646 (and any superseding Orders), and the authority granted to the Presiding Judge of the Snohomish County District Court pursuant to GR 29, this

Emergency Order is effective January 5, 2021, and shall remain in effect unless renewed, modified or rescinded by the Snohomish County District Court Presiding Judge. All Divisions of the Snohomish County District Court will remain open, pending further Order of the Court.

Order

1. **Protection Order and Compliance Hearings**

   (a) All civil protection order hearings for Unlawful Harassment, Domestic Violence, Stalking, Sexual Assault and Extreme Risk Protection Orders will be calendared per normal division policies.

   (b) All compliance hearings pursuant to RCW 10.21.055 and weapons surrender orders pursuant to Chapter 9.41. RCW will be calendared on the normal motions calendar for each division.

   (c) All ex parte petitions may be determined based solely on the petition unless otherwise directed by a Judicial Officer.

   (d) All hearings will be conducted via an approved video platform or in person. Attachment B lists in person and video hearings. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. If participation is through a video platform, the petitioner and respondent are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, or disconnecting prior to the hearing or before the hearing has concluded, may be considered a non-appearance.

2. **Criminal Hearings**

   (a) The Time for Trial provisions of CrRLJ 3.3 are suspended from the date of this order until the next court date after February 5, 2021, and further Order of the Court. This constitutes an excluded period under CrRLJ 3.3(e). CrRLJ 2.2(g) is suspended until further Order of the Court.

   (b) Arraignments: All arraignments will be held via approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. Arraignment provisions of CrRLJ 4.1 are suspended until further Order of the Court. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial under CrR 3.3(c)(1), CrRLJ 3.3(c)(1).

   (c) Motions: All criminal motions may be noted in the customary manner. The dates and times for criminal motions can be found here: https://www.snohomishcountywa.gov/DocumentCenter/View/78124/Criminal-2021-Calendar?bidId=

   Attachment B lists in person and video hearings. Calendars in all Divisions will be subject to maximum calendar limitations per session and/or designed to ensure appropriate social distancing if the hearings are in person. The following motions may be heard on shortened time pursuant to previous Supreme Court and Administrative Orders:

   Motions to quash warrants.
   Motions regarding bail.
   Motions for TRO from custody.

Motions to review pre-trial release conditions.
Any other Motion with the consent of a Judicial Officer.

(i) Commencing July 1, 2020 all hearings will be conducted via an approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer.

(ii) CrRLJ 8.1(c) still applies to all hearings with the exceptions outlined in the Supreme Court Orders for in custody matters. The court will accept agreed orders in lieu of a hearing subject to availability on the calendar.

(iii) The Court waives the $50 walk-in warrant quash fee for all warrants below $5,000.

(iv) The Court will waive signatures on all documents for video hearings subject to an appropriate waiver entered on the record. Waivers of signatures implicating constitutional protections, including but not limited to guilty pleas and sentencing, shall be made knowingly, intelligently, and voluntarily. The Court specifically authorizes video plea and sentencing as indicated in Attachment B as disposition hearings.

(v) Motions calendars will return to regularly scheduled times in each division.

(d) Readiness: The court will allow the submission of agreed continuances and waiver of appearance motions while this administrative order is in effect. The motions must be filed by the end of the business day one week prior to the readiness hearing and must be signed by all parties (for example, if the readiness hearing is on a Wednesday, the motion must be filed by close of business the previous Wednesday). Late filed motions and motions to shorten time for agreed continuances and waiver of appearance will not be considered. All such motions are subject to judicial review and may be denied at the discretion of the judicial officer.

(e) Jury Trials: Jury trials are suspended until at least February 5, 2021 and until further Order of the Court. Any Defendant that remains in custody pending the reinstatement of jury trials will have an automatic review of release conditions at their first regularly scheduled confirmation date. This provision does not supersede the Defendant's right to request a bail review pursuant to 2(b). The continued high levels of COVID cases locally and statewide constitutes an "unavoidable circumstance" pursuant to CrRLJ 3.3(e)(8).

(f) Failure to appear: If participation is through a video platform, the plaintiff and the defendant are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, or disconnecting prior to the hearing or before the hearing has concluded, may be considered a non-appearance.

3. Traffic Infraction Hearings

All hearings will be held via an approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. Attachment B lists in person and video hearings. If participation is through a video platform, the plaintiff and respondent are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, or disconnecting prior to the hearing or before the hearing has concluded, may be considered a non-appearance.

The Court will continue to accept, and in fact encourages, agreed orders.

4. **Civil Proceedings**

Jury trials are suspended until at least February 5, 2021 and until further Order of the Court. All civil motions may be noted in the customary manner. The dates and times for civil motions can be found here: https://www.snohomishcountywa.gov/DocumentCenter/View/78123/Civil-2021-Calendar?bidId=

All hearings will be held via an approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. Attachment B lists in person and video hearings. If participation is through a video platform, the plaintiff/petitioner and respondent are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, or disconnecting prior to the hearing or before the hearing has concluded, may be considered a non-appearance.

5. **Jail Calendars and Mental Health Court**

(a) This Order does not apply to Mental Health Court. Judicial Officers hearing the Mental Health Court calendars may make such Orders as are necessary to protect the health and safety of all participants and the public.

(b) Jail calendars are subject to Supreme Court Order 25700-B-646.

(c) No jail transports to Cascade, Everett, Evergreen, or South Division will occur absent the approval of a Judicial Officer.

6. **Rules**

Any Snohomish County District Court Local Rules or State Court Rules that are inconsistent with the provisions of this Administrative Order are suspended during the effective time of this Order.

7. **Other**

(a) For purposes of this Order, 'Judicial Officer' means a Snohomish County District Court Judge or Snohomish County District Court Commissioner. The only exceptions for this are that pro tem judges may determine the appropriateness of wearing masks during court proceedings pursuant to Attachment A, for allowing telephonic hearings pursuant to 7(b), and for waiving a video portion of a video platform hearing.

(b) Any civil or criminal matter may be heard upon the approval of a Judicial Officer and, upon a finding of good cause, a Judicial Officer may allow telephonic hearings on a case-by-case basis.

(c) This Administrative Order is subject to Supreme Court Order 25700-B-646 and any provisions in conflict with Order 25700-B-646 are superseded.

(d) The Court will accept the following online classes that were taken during the time Emergency Orders were in effect: DUI victim panels; ADIS classes; theft awareness classes; anger management classes; and the MADD DV victim panel and any other DV panel that has been approved by the Probation Supervisor.

(e) Attachment A addresses masks, face coverings and social distancing. Due to the possibility of rapid policy changes, Attachment A may be subject to change without notice.

(f) Attachment B lists Zoom hearings and those hearings being held in person in the courtroom. Due to the possibility of rapid policy changes, Attachment B may be subject to change without notice.

Dated this 5th day of January 2021

Judge Douglas J. Fair
Presiding Judge
Snohomish County District Court

Attachment A

Face Covering Policy.

Findings

This face covering policy incorporates the findings set forth in District Court Administrative Order 20-09B, any emergency orders following that order, as well as the following findings. Pursuant to GR 36(a) a "safe courthouse environment is fundamental to the administration of justice. Employees, case participants and members of the public should expect safe and secure courthouses." This face covering policy recognizes the independent authority of the Courts to provide a safe environment for all participants as well as the need for a policy that safeguards the fairness of the fact-finding process.

The courthouse and courtrooms are open to the public. Employees, case participants, and members of the public are present in the same common areas and courtrooms in confined spaces. People who have the novel coronavirus and are currently infectious may appear totally asymptomatic. Social distancing is encouraged through markings on the floor where waiting lines occur, by closing off some seating areas, and signage placed throughout the courthouses.

However, it not possible to maintain social distancing at all times. An employee, case participant or member of the public exposed to COVID-19 at the courthouse would negatively impact the ability of the Court to perform essential public safety and administration of justice functions.

The Center for Disease Control (CDC) and the Washington State Department of Health recommend that, during the current COVID-19 pandemic, individuals wear a covering over the mouth and nose to protect themselves and others. See coronavirus.wa.gov. No other reasonable alternatives are available to mitigate the risk of exposure to COVID-19 within the courthouse other than social distancing and the required use of mouth and nose coverings.

Authority of the Court

GR 36(a) vests in the Courts the authority to establish reasonable protocols to protect the safety of employees, case participants and the public. Additionally, Washington State and Federal cases support the authority of the courts to adopt reasonable procedures and rules regarding safety. See *State v. Hartzog,* 96 Wn.2d 383 (1981); *Jacobson v. Massachusetts,* 197 U.S. 11 (1905).

Snohomish County District Court - Face Mask Policy

Effective June 1, 2020 and during the duration of emergency orders addressing the COVID-19 pandemic, all persons entering the courthouse at the Cascade, Evergreen and South Divisions of Snohomish County District Court are required to wear a face covering that covers their mouth and nostrils. A clear face shield that covers the entirety of the face from ear to ear and to below the chin will comply with this requirement. For the Everett Division, this policy applies to the courtrooms and the District Court lobby and work areas.

The required face covering must be worn at all times unless an exception established by this policy applies or as determined by a judicial officer. Persons without required face coverings will be denied entry to the courthouse at the Cascade, Evergreen and South Divisions. In the Everett Division persons without facemasks will be denied entry to the courtrooms, lobby and work areas. The court is not required to provide a face covering except as noted below.

Exceptions:

(1) The District Court will provide face coverings for jurors, witnesses, those persons in need of ADA accommodations, and District Court employees.

(2) At the discretion of a judicial officer, a face covering may be removed to ensure effective communication, to enable compliance with ADA requirements and to implement any accommodations necessary to ensure the fairness of the proceedings and avoid prejudice to any person.

(3) A judicial officer may direct that witnesses' face coverings be removed during testimony.

(4) Any person who provides verifiable proof that their medical provider has determined that their health and safety is put at risk by wearing a face covering is exempt from this policy. Special accommodations for ADA issues will be addressed on a case-by-case basis.

(5) Children under the age of 2 years are not required to wear a face covering.

(6) District Court employees will be provided three (3) cloth facemasks or one (1) shield per employee at their request. Employees in a private space such as in an

office or break room with no one else present is not required to wear a mask or face covering as long as they remain alone. Employees will be given short breaks at regular intervals to allow them access to a private area where they can safely remove their masks. Removal of the mask will also be allowed for the purposes of eating and drinking and shall be no longer than necessary to consume food or drink.

Attachment B

Virtual Hearings (Zoom)

Arraignment
Non-contested probation compliance hearings
Civil motions
Small claims mediation
Ex-parte motions
Contested infractions
Mitigation hearings
Name changes
Non-testimonial motions
Disposition hearings
Pre-trial/confirmation hearings
Jury trial call calendar for appearance only cases

In person hearings

Vehicle impound
Contested infractions at the discretion of the judicial officer
Contested probation hearings at the discretion of the judicial officer
Full order hearings
Evidentiary hearings on the motion calendar
Bench trials (including small claims trials)
Compliance review hearings for firearms/IID/SCRAM
Jury trial call calendar for confirmed cases
Jury trials