

April 1, 2020

Vol. 47, No. 8

Update from the Chief Justice

March 27, 2020

Dear Oregon Lawyers:

I am writing to thank you again for your suggestions for amendments to Chief Justice Order 20-006, which I issued on Monday, March 16, and to tell you that I issued an amended order today. Amended CJO 20-006 extends and modifies CJO 20-006 and will be in place until further order. I deeply appreciate the comments and recommendations that I received from Bar members and the active support of the Oregon State Bar. Amended CJO 20-006 will enable the courts to expand what we can do to safely provide access to justice during the ongoing COVID-19 pandemic. When you review the Amended Order, I hope you will see that we have adopted many of your suggestions and the suggestions of the multiple Work Groups that we formed to advise me. Amended CJO 20-006 extends many of the original restrictions and adds measures to provide greater certainty about scheduling and ensure the consistent implementation of statewide safety measures for lawyers, litigants, other case participants, and the public. The best way to understand what the Amended Order does is to read it in full. It is complex and I don't want to detract from the hard work that went into crafting it by restating it simplistically. But I do want to alert you to the provisions that will be most significant for most lawyers:

- Most trials--jury and bench trials in all case types-- will be postponed and will not be held until after June 1, 2020. That does not mean that you will be expected to go to trial in June; it means that, in most instances, you will not be going to trial before June 1. Different circuit courts will make different decisions about how far out to schedule and reschedule trials and hearings.
- Presiding Judges have discretion to set particular trials earlier than June 1 if there is a need, and there are provisions for trials to be held by remote means.
- Proceedings other than trials fall into four categories. Category 1 essential proceedings will take place as scheduled, including before June 1, and generally will be in person. Category 2 essential proceedings will take place as scheduled, including before June 1, and, generally, will be held remotely. Category 3 essential proceedings will take place as scheduled, generally remotely, or be postponed according to policies developed by local courts. Category 4, nonessential proceedings, will be postponed. These are general rules, and the amended order specifies the proceedings that fall into each category.
- Presiding Judges have discretion to set particular proceedings at the appropriate time and to determine whether proceedings can be held by remote means.
- Motions to be by remote means. Motions will be heard by remote means unless there is a constitutional or statutory right for an in-person hearing. The court may grant a motion for an in-person

hearing upon a showing of a need to proceed, imminent harm, or other good cause.

- Electronic filing of exhibits. For all proceedings that are conducted by remote means, exhibits may be submitted by eFiling. Lawyers who eFile their exhibits will need to specially designate those exhibits and follow the specific eFiling rules in the amended order.
- Modified court services. We will continue to ask many judges and staff to work from home to limit the spread of COVID-19. We have expanded our capacity for at-home work and remote hearings, but will continue to accept filings, issue notices and orders, and provide other services that local courts can offer with reduced on-site staff. Each court will post and publish how it will provide justice services and public access.

- Continued efforts to reduce jail populations. We will continue to work with our partners in the justice system to reduce jail populations. The more people in jail, the more time-sensitive, in-court proceedings are required, and the greater the chance of spreading COVID-19.

Separately from Amended CJO 20-006, I have signed two additional Chief Justice Orders today that are now in effect and should be of interest to you:

- Electronic signatures in eFiled declarations. CJO 20-008 will allow eFiling declarations that have been electronically signed by parties and witnesses when using appropriate electronic signature software.

- Reduced collection fees and collection activity for people of limited means. CJO 20-010 allows suspension or waiver of collection fees. Together with Amended CJO 20-006 and other administrative actions, courts will limit imposition of fines and suspend many collection activities for those who are unable to pay. All the these CJO's are posted on the OJD and Bar home pages, at www.courts.oregon.gov and www.osbar.org If you want to propose additional changes or have comments on this amended CJO, please send them to cjofeedback@ojd.state.or.us. That will help ensure a comprehensive review of all comments. Special Session Legislation. As I indicated in my previous message to you, there are some additional restrictions and changes that I would like to impose but currently do not have authority to accomplish. I have asked the legislature to give the Chief Justice authority to suspend statutory and rule timelines, that, under current law, cannot be extended for good cause, and to expand Chief Justice authority to require that proceedings be conducted by remote means. If that authority is granted, I will be working with Bar members and work groups to issue additional CJO's. The legislature is also considering legislative concepts that would suspend statutes of limitations and similar laws and rules. Although the timing of any special session remains uncertain, there appears to be broad support for legislation that we have proposed. My March 24 letter to legislative leaders outlining these proposals is posted on the Bar home page. In closing, I recognize that these are very difficult times for everyone. I cannot tell you how hard judges throughout the state worked to help me craft these CJOs and how hard they continue to work to meet their statutory and constitutional responsibilities while also helping to protect public health and reduce the spread of COVID-19. They

and their staffs, like you, are under extreme stress. They, like me, and like you, can make mistakes. I encourage you to continue to make suggestions for changes and improvement. I also ask that you do so in a way that helps us to work collectively toward goals that I know we all share. The collaboration that I have seen to date reinforces my strong belief in you and in the strength of our justice system. Stay physically distant, but stay by my side. I need you. Keep on keepin' on!

Presiding Judge Order No. 2020-03

For those of you who may not have already seen it, the complete text of the Order issued by the Honorable Debra K. Vogt, Presiding Judge of the Lane County Circuit Court, on April 1, 2020 is located at the end of this newsletter.

Lane County Circuit Court COVID-19 Response - Management Plan

For those of you who may not have already seen it, the complete text of the Lane County Circuit Court COVID-19 Response - Management Plan revised on April 1, 2020 is located at the end of this newsletter.

AFCC/LCBA Family Law Section Update



The Lane County Bar Association Family Law Section and Association of Family and Conciliation Courts monthly meetings are canceled until further notice.

NALS of Lane County

Friends,

Out of an abundance of caution and a wish to comply with community protocols, we are cancelling our April 21 education meeting. We cancelled our March meeting for the same reason. We will keep an eye on the situation and send out a notice for the next possible meeting when this crisis eases up and the community is less threatened.

Stay safe!

Charlene Sabini, PP, CLP

News from the LCBA President

We have cancelled all luncheon events until further notice. We will try to host the Spring Bash in June if conditions improve. I do not expect to provide monthly updates except for the following message in the newsletter and email blasts:

The LCBA is seeking to fill three or four vacancies on the LCBA Board. Directors are elected to three year terms and this position would start on July 1. If you are interested in the position, please contact **Brad Litchfield** at brad@eugenelaw.com. If any attorney members are interested in future service as a Committee Chair or Program Chair, please also let Brad know of your interest.



Update on Probate & Estate CLE

Dear LCBA Probate and Estate Committee members & friends,

As you know, I made the decision to cancel our March Probate & Estate CLE on "Business Stewardship Trusts" presented by Prof. **Susan Gary**, U of O, School of Law.

For a number of reasons, primarily over concerns relating to the "Corona Virus," COVID-19, I have made the call to cancel this important CLE. I believe that I can reschedule once we have a better handle on COVID-19.

My decision is in part a result of my general health concern to protect our population from unnecessary risk and my desire to cooperate with medical advice on COVID-19. I understand that there is a just announced recommendation that no more than 10 people be at any gathering for the next several days. I believe that Stewardship Trusts are an important new tool in estate planning, and I want to allow for the largest number of estate planners possible to participate. Also, out of respect to Professor Gary, I believe her time and this topic are too important not to allow for the maximum participation possible.

Thank you for your understanding. I will keep you posted later on other scheduled LCBA Probate & Estate CLEs in April and May. Much is yet unknown, but we can all do our part to limit the impact of this pandemic and to cooperate with health and governmental authorities who are trying to protect us.

Sincerely,

John Hudson
Chair, LCBA Probate & Estate Committee



COUNTY LAW LIBRARY CONTINUES VIRTUAL REFERENCE SERVICES

Wow. As I draft this article, it is March 20, 2020. The way the world has changed in a matter of days is staggering.

As the Law Library is a confined space within the basement of the County's Public Service Building (which sees hundreds of people walk through its doors every day), it was decided that the library doors would be closed to in-person visitors beginning Tuesday, March 17th. This fell in line with steps taken by public law libraries around the US, as indeed many public agencies have been mandated to close in accordance with efforts to stop the spread of the coronavirus.

That said, the Law Librarian remains ready and available to assist with your legal research needs!

For the foreseeable future, lawyers can have virtual access to the Law Library's subscription databases, print collection, and research expertise – all via the County's dedicated and hard-working Law Librarian.

Need a case from Westlaw? Trying to find something within OSB BarBooks? Looking for Oregon legislative history resources, or the newest information on legal matters related to COVID-19? Really need to check out a particular CLE title?

Allow your friendly Law Librarian to help you! Using telephone, email, and even snail mail, she will aspire to respond quickly and thoughtfully to your questions. She will gladly scan and send documents on demand, and even perform some limited research assistance upon request.

Further, if there is a specific service that would be valuable while not having access to typical resources or otherwise stuck at home, your Lane County Law Librarian is eager to investigate and support practitioners however she can! Please do not hesitate to reach out.

Lane County Law Library contact information:

Telephone: (541) 682-4337

Email: lclawlib@lanecountyor.gov

Website: www.lanecountyor.gov/lawlibrary (to be updated and expanded in the coming weeks!)



PLEASE STAY TUNED FOR THE FOLLOWING FUTURE CLE:

UPDATES IN LANE COUNTY LANDLORD-TENANT LAW PRACTICE AND HOW LIMITED SCOPE REPRESENTATION CAN FACILITATE THIS AREA.

Date: **TBD - May/June 2020**

Location: Lane County Courthouse, Courtroom 203

Friday, 12:00 p.m. in Courtroom 203, Lane County Courthouse, **LCBA's Pro Bono/Limited Scope Representation Committee** presents a panel discussion on *Recent Changes in Oregon's Landlord-Tenant Laws* from both tenant and landlord perspectives as well as procedural information specific to Lane County.

This presentation focuses on recent changes in eviction proceedings as well as expungement. Judge **Debra Velure** will provide critical procedural insight, followed by a discussion with Attorney **Elliott Farren** from the Oregon Law Center, and Attorney **James Gardner** from Gardner Potter Budge Meadows, LLC. The discussion will be moderated by Attorney **Judith Moman**, Pro Bono/ Limited Scope Representation committee chair, who will briefly discuss how this area of practice is suited for limited scope representation.

There is no cost for this event, and we will be applying to the Oregon State Bar for 1 General CLE credit.

Ideas Wanted



Please contact LCBA Family Law Section Co-Chairs **Karen Anderson** at kanderson@luvaascobb.com or **Mallory Woodman** at mwoodman@longtinlaw.com if you would like to be added to the LCBA Family Law Section listserv to receive updates on speakers and reminders for events. Also, please don't hesitate to contact us if you have any suggestions for CLE topics or speakers.



Upcoming CLEs

**LANE COUNTY FAMILY LAW SECTION
ASSOCIATION OF FAMILY & CONCILIATION COURTS
2020 CLE CALENDAR**
Courtroom 302, 12:00 p.m. – 1:00 p.m.
(Subject to change.)

The Lane County Bar Association Family Law Section and Association of Family and Conciliation Courts monthly meetings are canceled until further notice. Please contact **Mallory Woodman** at mwoodman@longtinlaw.com to be added to the Family Law Section listserv to receive scheduling updates. We also plan to provide scheduling updates via the LCBA website and May 2020 LCBA Bar News.

Office Space Available

OFFICE AVAILABLE FOR RENT

101 East 14th (14th & Oak), the John R. Potter building, home to OCDLA

Professional office space centrally located in downtown Eugene available! Small office located on the west side of the building with large exterior window and built in closet/file space. Common areas include well equipped kitchen, OCDLA training/conference room and reception area with large windows. Security service, high speed internet, utilities and once a week janitorial service are included for \$475 per month. Private parking space adjacent to building may be added for \$50 per month. Copier usage and postage costs are separate and may be available for an additional cost. Secretarial space also available for an additional cost. Interested? Call **Shaun** or **Alene** at OCDLA (541) 686-8716.



BEAUTIFUL RIVERVIEW OFFICE ON THE WILLAMETTE RIVER IN THE NORTHBANK OFFICE COMPLEX:

Available June 1, 2020. Office sharing with congenial group of attorneys and professionals. One river view office space (about 10' X 15' - \$1,084.80 - available June 1st) and one support or standalone office (about 10' X 10' - \$458.20, available now). Includes shared reception and office machines. Common areas include conference room, reception area, lunchroom, restroom, & free parking. Shared receptionist, multi-line telephones, Comcast business internet, copier, scan, fax and free parking. Locker & Shower available. Next to McMemans Northbank Restaurant near the Ferry Street Bridge on Coburg Road. Call 541-485-0777 for details. Northbank Professional Offices, LLC.

**LANE COUNTY
PROBATE & ESTATE PLANNING CLEs
2019-2020 (2nd Tuesday of the Month)**
Courtroom 302, 12:00 p.m. - 1:00 p.m.
(Subject to change)

DATE	TOPIC / SPEAKER
The Lane County Bar Association Probate & Estate Committee CLS's are currently suspended. They will be rescheduled as it becomes feasible.	

Announcements



Corson & Johnson is extremely pleased to welcome attorney **Beatrice Grace** starting in April 2020. Bea clerked for U.S. District Court Magistrate Judge Kasubhai from 2018 to 2020. Before that, she litigated personal injury and medical negligence cases, after first clerking at the Lane County Circuit Court. Bea is also a Registered Nurse, having worked in

hospital Emergency Departments for many years. As a long-time patient advocate, Bea is passionate about helping those who can no longer help themselves. At Corson & Johnson, she represents people injured by nursing home negligence, hospital system failures, and by motor vehicle collisions.



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Paralegal with 10 years of experience specializing in small practice bookkeeping and payroll. Contact Marisela Taylor, 541-942-0000, or mari@paintedmountaindesign.com

INVESTIGATIVE SERVICES

Criminal and civil investigations, background checks, witness interviews, process service, reasonable rates. **Stacy D. Stumbo Private Investigations** (PI-ID No. 63668) Call (541) 514-5179 or email sdsp@yaho.com for details.

CONTRACT PARALEGAL SERVICE S&T SUPPORT, LLC

Seasoned Paralegals available on an as-needed basis. Backgrounds in estate planning, probate/trust administration, business law, and litigation. Will work remotely or on-site serving Salem, Portland and Eugene. Visit <https://www.stsupportllc.com/> for services and staff. Call (503) 967-6023 or email tammy@stsupportllc.com to discuss your paralegal needs.

MEDIATION SERVICES

Retired senior judge **Jack Billings** is available for mediation and arbitration services. Judge Billings has settled literally hundreds of domestic relations, tort, real estate, construction defect, contract and other disputes during his more than 45 years of bar service. He can generally arrange a mediation within a few weeks. For information on fees and availability contact him at: srjudgejab@yahoo.com, 541-510-6239.

Bar News Submission Deadline

Please help us get the Bar News to you in a timely manner. While all submissions are welcomed, remember the *deadline is the 20th of each month*. We try to accommodate the inclusion of all submissions, but cannot guarantee that any submissions received after this deadline will be included in the next issue. Submissions that do not make one issue of the newsletter will, of course, be included in the subsequent issue. We try to release the newsletter as close to the first of the month as possible; however, sometimes things happen to prevent that. Please keep that in mind when submitting information for an event that takes place during the first week of the month. The preparation of this newsletter is a labor of love, but it does take some time and effort. Your support of this process is greatly appreciated. Thank you.

Don't Miss the
DEADLINE!

Upcoming Events

Check the LCBA or Lane County Circuit Court websites for further developments during this time of COVID-19



Remember to cover your coughs and sneezes like a vampire:

Pull your cape across your face and cough or sneeze into the crook of your elbow.

There is a reason vampires live so long - they don't spread their germs.



Lane County Bar Association
 c/o Secretary-Treasurer
 Post Office Box 11379
 Eugene, OR 97440

Freelance Legal
 Secretaries/Assistants:

Kelly Lee (541) 515-2962
 Tamara Banavige (541) 431-0812




Be a Germ-Buster
WASH YOUR HANDS




Earth Day April 22



National Volunteer Week
 April 19 - 25



April 19 - 25

Bar News

Next Submission Deadline: **Monday, April 20, 2020**

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Issues of the *Bar News* are available at:
<http://lanecountybar.org>



Lane County Bar Association

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

IN THE MATTER OF RESTRICTION OF
COURT OPERATIONS: COVID-19

PURSUANT TO CHIEF JUSTICE ORDER
20-006 AMENDED.

PRESIDING JUDGE ORDER
No. 2020-03
61-01-04610

Whereas the conditions and impacts resulting from COVID-19 are changing rapidly. In accordance with Governor Kate Brown's emergency declaration, the current thinking of experts in public health, and Chief Justice Order 20-006, Amended,

I HEREBY ORDER that while CJO 20-006, Amended is in effect, the 2nd Judicial District, Lane County Circuit Court will comply with all provisions outlined in the order and;

I HEREBY ORDER:

1. Court Hours and Services

- A. The court's current public service hours to accept filings, take payments, and answer phones remain in effect and are as follows: Lane County Circuit Court shall be open from 8:00 a.m. to 5:00 p.m. for conducting the business of the court.
- B. The Court will continue the services of the Family Court Assistance office by remote means.
- C. All in-person services will be provided observing social distancing.
- D. All services that can be provided by alternative means such as web-based, video-conferencing and teleconferencing will be provided by those alternative means as available by law.
- E. Litigants and the public are encouraged to call the court at 541-682-4020 for information or to determine if a personal appearance is available or needed in their case.
- F. Litigants and the public are encouraged to use the court's online services available on the court's website <https://www.courts.oregon.gov/courts/lane/Pages/default.aspx> as follows:
 - a. Make payments:
<https://www.courts.oregon.gov/courts/lane/payments/Pages/default.aspx>

- b. Search for or request court records:
<https://www.courts.oregon.gov/courts/lane/records/Pages/default.aspx>
 - c. Use the courts fillable forms to complete court forms prior to filing:
<https://www.courts.oregon.gov/courts/lane/help/Pages/Forms.aspx>
 - d. Find out when to appear in court:
<https://www.courts.oregon.gov/services/online/Pages/records-calendars.aspx>
 - e. And find out information about court services during the COVID-19 pandemic.
- G. Individuals coming to the courthouse or court services at the juvenile justice center who exhibit symptoms associated with Covid-19 may be directed to leave by any judge or court manager. If so directed, the individual must leave the premises.

2. Jury Trials

- A. All jury trials other than jury trials for defendants who are in custody on criminal charges that provide them with a statutory or constitutional right to a speedy trial, which are scheduled prior to May 31, 2020 shall be rescheduled to a later date without motion by parties.
- B. Defendants who are in custody on criminal charges that provide them with a statutory or constitutional right to jury trial will not be postponed unless the Presiding Judge determines that a postponement will not violate a statutory or constitutional right.

3. Landlord Tenant Proceedings

- A. All first appearances under ORS 105.137(1) and (2) shall be postponed without the need for a motion. All parties who are required to appear on the date set by a summons shall be deemed to have appeared, and no answer shall be required at that time. All first appearance dates shall be set out to after May 31, 2020. Parties will be notified of the new date and all parties shall appear at the first appearance on the date set.
- B. All trials are set out to after May 31, 2020. Parties will be notified of the new date.

4. Traffic Violations

- A. Citing agencies are directed to cite defendants to appear on traffic violations at a minimum of 60 days in the future from the date of citation and no sooner than June 1, 2020.
- B. All trials are set out to after May 31, 2020. Parties will be notified of the new date.

5. **All Other Trials and Hearings** will be managed as set forth in the The Lane County Circuit Court Covid-19 Response Management Plan, which is incorporated herein by reference and is attached hereto. The plan sets out the response for management of cases by docket and case or hearing type. Where the management plan denotes delegation of the Presiding Judge's authority to other judges, it is so ordered. The management plan remains subject to change as technology can be feasibly implemented and will be posted on the Lane County Circuit Court website. Please check the website <https://www.courts.oregon.gov/courts/lane/Pages/default.aspx> regularly for updates.
6. **Remote Hearings.** In all instances where remote hearings are contemplated by the Lane County Circuit Court Covid-19 Response Management Plan:
- a. In the pleadings, parties shall provide their phone number as well as the phone number of the other party if known to them.
 - b. Parties are required to remain available at the phone number provided to the Court beginning at the time of the hearing and continuing until notified by the Court that their matter has concluded.
 - c. Witnesses:
 - i. Parties are required to have any witnesses available by phone either with them or at a number that can be called by the Court at the time of the hearing.
 - ii. If the witness is not immediately accessible by phone, then the Court may not hear from that witness.
 - d. Exhibits:
 - i. If a party is represented by an attorney, exhibits shall be filed in accordance with CJO 20-006 Amended 7.
 - ii. If a party is not represented by an attorney, exhibits may be filed in accordance with CJO 20-006 Amended 7 or filed with the Court not later than 48 hours in advance of the hearing.
 - iii. Copies of exhibits must be served upon the other party not later than 48 hours in advance of the hearing.
 - iv. Failure to timely file and serve exhibits may result in the Court disregarding the exhibits or setting the matter over, for good cause, to allow the parties to receive and review exhibits.

7. **In Custody Criminal Proceedings.** In criminal proceedings, regardless of the Lane County Circuit Court Covid-19 Response Management Plan, the judge assigned to the proceeding has the authority to hear the matter remotely if the defendant is in custody and:
- a. The defendant is in medical isolation
 - b. The defendant is being held in quarantine
 - c. The defendant is being held in segregation
 - d. The defendant has a recent history of projecting bodily fluids at others.

8. Expectations of Attorneys

- A. Attorneys are expected to appear in-person for trials or hearings that are held in-person unless the attorney is excused, or if the Presiding Judge adopts a procedure that allows attorneys to appear remotely as reflected in the Lane County Circuit Court Covid-19 Response Management Plan. Attorneys are expected to assist the court with maintaining the health and safety of the courthouse. Attorneys shall maintain social distancing while in the courthouse.
- B. An attorney who has concerns about appearing in-person, or having their client appear in person due to illness or COVID-19 concerns should seek to be excused, request a postponement or request to appear remotely if feasible.
- C. An attorney seeking to appear remotely at a scheduled in person appearance due to concerns regarding COVID-19 must submit a motion with a supporting affidavit and proposed order.
- a. The affidavit must include:
 - i. The specific reasons based on the particular situation as it relates to Covid-19, such as if there are persons involved that are high risk as defined in CJO 20-006 Amended 1.a.
 - ii. Whether their client has been notified of and consents to the attorney appearing remotely.
 - b. If the matter is a change of plea or sentencing in a criminal case and a defense attorney's request to appear remotely is allowed under this section, the defense attorney must arrange for another defense attorney to be present in person at the proceeding with the client.

9. Ancillary Proceedings

- A. Visitation for Wards of the Juvenile Court
- a. In light of the current State of Emergency and consistent with the Governor's mandate, until May 31, 2020 or further order of the Presiding Judge, any order or

judgment of the Juvenile Department of the 2nd Judicial District ordering a specific schedule for in-person visitation is suspended. During the pendency of this order, the frequency and type of visitation for all children who are wards of the court and in the custody of the Department of Human Services-Child Welfare Division (DHS) will be at the discretion of DHS. DHS may continue or suspend in-person visitation as DHS deems necessary to maintain familial bonds and to protect the health and safety of children, parents, foster families and caseworkers.

- b. During the pendency of this order, DHS is ordered to provide alternative modes of contact between children, their parents and family. For any case where in-person visitation is suspended, DHS shall document efforts to provide alternative modes of contact. When in-person visitation is suspended, DHS shall provide notice to the court, the Department of Justice and to the attorneys of children and parents of both the suspension of in-person visits, the specific reason for the suspension of the visits and what efforts DHS has made to provide alternative modes of contact.
- c. A party may, by motion, request a hearing regarding the modification or suspension of in-person visitation. The court may set a telephonic hearing depending on the cause outlined in the motion and after balancing the health and safety of the community.

B. Closure of Placements holding Youth under the Jurisdiction of the Court (Delinquency)

- a. Any Youth under the jurisdiction of the Juvenile Department of the 2nd Judicial District under a delinquency petition, currently placed in a treatment program or closed custody pursuant to order or case plan may be moved to another program or placement without further hearing if the move is necessary due to a program closing or modifying placement due to COVID-19.
- b. The Lane County Division of Youth Services or Oregon Youth Authority shall submit a modified case plan with a cover letter or memo within three days of any move. The cover letter or memo must describe the former placement, the reason for the move, and the current placement. The cover letter or memo and the new case plan must be sent to the Court, the District Attorney and the Youth's attorney.
- c. A party may, by motion, request a hearing regarding the movement of a youth pursuant to this order. The court may set a telephonic hearing depending on the cause outlined in the motion and after balancing the health and safety of the community.

10. Lane County Circuit Court's Quarantine and Isolation Judge is: The Presiding Judge

11. Presiding Judge Authority


- A. I retain discretion to order that a particular trial, hearing, or other court operation will take place if, after consulting with the parties and other affected persons, I determine that there is a need for in-person court action, that social distancing can be required, and that the court can order other reasonable precautions to protect the health of the participants, including court staff.
- B. I hereby suspend the following Supplementary Local Rules to conform with this order and the CJO 20-006:
 - a. SLR 2.501(1)(a)-(c) and (e)-(g)
 - b. SLR 2.501(2)
 - c. SLR 2.501(4)
- C. In the event that I become unable to perform the duties of the presiding judge during these Level 3 restrictions, Judge Charles Zennaché shall have authority to act as presiding judge during my incapacity.

12. Effective Dates

These restrictions are in effect no later than the start of business on April 1, 2020 and will continue until otherwise ordered.

Dated this 1st day of April 2020,

Signed: 4/1/2020 04:45 PM



Debra K. Vogt **Debra K. Vogt, Circuit Court Judge**
Presiding Judge

Level 3: Pursuant to Chief Justice Order 20-006, Amended, this plan restricts in-person proceedings. This plan will last at least through 5/31/2020 with postponement strategies for certain cases and social distancing for all remaining in-person proceedings and services.

In all cases/hearings being postponed pursuant to the protocols below, use the COVID-19 postponement code COVID description Coronavirus Concern.

CJO 20-006 Categories:

Category 1= In person proceeding. Category 2 = generally remote proceedings. Category 3 = generally remote proceedings as authorized by PJO.

Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
35 Day Call	In custody	Essential Proceeding Category 1 3.a.(2)(A)	In person with social distancing NOTE: If the defendant is released on a release agreement prior to 35 day call, Pretrial is to ensure that the date set for 35 day call is after 5/31/2020. If not, set 35 day call date on release agreement for after 5/31/2020. Copies are sent to DA and defense counsel. Court clerk to postpone 35 day and send new notice.
35 Day Call	Out of custody	Essential Proceeding Category 2 3.b.(2)(A)(i)	Postponed by PJ until a reasonable remote hearing process is available and can be deployed. Postpone all set through 5/29/2020 to a date after 5/31/2020
Arraignments	In custody Aid and Assist	Essential Proceeding Category 1 3.a.(2)(A)	To be held on the date scheduled. To be conducted remotely whenever feasible.
Arraignments	Out of custody Citations on offenses	Essential Proceeding Category 2 3.b.(2)(A)(ii)	Postponed by PJ until a reasonable remote hearing process is available and can be deployed.

1

Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Arraignments	Out of custody All others not covered above	Non-Essential Proceeding 4.a.(1)	All set through 5/30/2020 will be set over for a new date after 5/31/2020 without motion.
Civil Commitments	All	Essential Proceeding Category 1 3.a.(2)(C)	To be conducted remotely whenever feasible
Criminal Motions	In custody Oral Second Look Hearings Habeas Corpus	Essential Proceeding Category 1 3.a.(2)(A)	If there is not a statutory right for a hearing to be in person under CJO 20-006 6.a. then the proceeding will be conducted remotely. The PJ may grant a motion to appear in person with social distancing upon a showing of a need to proceed, imminent harm, or other good cause.
Criminal Motions	Out of custody Oral Contested Expungements	Non-Essential Proceeding 4.a.(1)	Postpone all set through 5/30/2020 to a date after 5/31/2020. If parties stipulate to the Court ruling on the pleadings, Court will rule on date scheduled as if filed as non-oral. Party may make motion to PJ for hearing due to exceptional circumstance (CJO 20-006, 8.a.). If hearing is allowed, to be conducted remotely.
Criminal Motions	In Custody and Out of custody Non-Oral	Category 1 3.a.(2)(A) Non-Essential Proceeding 4.a.(1)	Court will rule on the pleadings in the normal course.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Criminal Petitions	Driver Rights Restoration	Non-Essential Proceeding	Postpone all set through 5/30/2020 to a date after 5/31/2020.
	Gun Rights Restoration	4.a.(1)	Party may make motion to PJ for hearing prior to 6/1/2020 due to either adherence to the statutory timeline or for an exceptional circumstance (CJO 20-006, 8.a.). If hearing is allowed, it will be conducted remotely. See Exhibits CJO 20-006, 7.
	Relief from Sex Offender Registration		
Domestic Relations Status Conferences	Tuesday status hearings – Family law cases	Non-Essential Proceeding 4.a.(1)	All hearings currently set thru 5/29/2020 to be set over to a date after 5/31/2020, Calendar clerk’s office to set new hearings on at issue cases on a schedule approved by the PJ.
Ex parte	Immediate Danger	Essential Proceedings	To be conducted remotely effective 3/31/2020.
	Protective Order Dismissals	Category 2	The party must provide the court with a telephone number.
	Order of Assistance	3.b.(2)(B)(i),(ii),(iii),(iv)	Attorneys should eFile these proceedings.
Ex parte	All other family law ex parte matters (see above)	Other Court Services	Take filings at counter or via eFiling. No attorney filings in person – only eFile.
		Document Filing 9.a.	Pro se filings taken over counter to be forwarded to the FCAO workflow for review and notes for judge as necessary then to appropriate judicial workflow. Documents that are filed must be dealt with by the court and not returned to party. Attorney filings ex parte – via counter or eFiling. Send to appropriate judicial workflow.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Ex parte	Civil case matters	Other Court Services	Attorneys should eFile.
		Document Filing	
		9.a.	
Juvenile	Delinquency Adjudication	Trials	PJ authorizes Juvenile Judge to schedule proceedings to be held before June 1, 2020 and shall not postpone to a date later than June 1, 2020 without motion by youth.
	In custody	2.b.(1)-(4)	To be conducted remotely if reasonably feasible and permitted by law.
Juvenile	All other Delinquency Proceedings <u>in custody</u>	Essential Proceedings Category 2 3.b.(2)(D)(i) and (ii)	To be conducted remotely as scheduled by the juvenile judges
Juvenile	Delinquency Out of Custody Proceedings	Non-Essential Proceeding 4.a.(1)	Postpone all set through 5/30/2020 to a date after 5/31/2020 Party may make motion to PJ for hearing due to exceptional circumstance (CJO 20-006, 8.a.). If hearing is allowed, to be conducted remotely if feasible and permitted by law.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Juvenile	<p>Dependency</p> <p>Protective Custody Shelter hearings</p> <p>Jurisdiction and dispo hearings if constitutionally required</p> <p>Hearing on objection to placement</p> <p>Hearing on Motion to Dismiss</p>	<p>Essential Proceedings</p> <p>Category 2</p> <p>3.b.(2)(C) (i) – (v)</p>	<p>To be held on the date scheduled and conducted remotely if feasible and permitted by law or otherwise noted below:</p> <p>i. Protective Custody Order Applications</p> <p>ii. Shelter Hearings</p> <p>1. Original Hearings are to be held remotely except that an attorney may appear in person if their prospective client is expected to appear in person.</p> <p>2. Subsequent Shelter Hearings, including contested hearings to request or object to a change of placement, shall be set by motion. The court may set a telephonic hearing depending on the cause outlined in the motion and balancing health and safety.</p> <p>iii. Jurisdiction and Disposition Hearings, if constitutionally required;</p> <p>1. If uncontested, Jurisdictional Hearings will be heard remotely by the juvenile court at the time that they are currently set</p> <p>2. If contested, the parties may agree to set a contested hearing after June 1, 2020. If the parties are unable to agree to set the hearing after June 1, 2020, the party asking for a hearing sooner than June 1, 2020 shall file a motion that outlines the specific facts that support a finding that: (a) the hearing is constitutionally required, (b) the hearing cannot be postponed and (b) it is reasonably feasible that the hearing can be heard remotely.</p> <p>iv. Hearings on Motion to Dismiss, if constitutionally required</p> <p>1. Requests for hearings on Motions to Dismiss shall be by motion. If all parties do not agree to the Motion to Dismiss, the court may set a telephonic hearing depending on the cause outlined in the motion and balancing health and safety. UTCR 5.100 will apply to these motions.</p>

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Juvenile	<p>Dependency</p> <p>Jurisdiction and dispo hearings if NOT constitutionally required</p> <p>Permanency hearings</p> <p>Hearing motion to dismiss – not constitutionally required</p> <p>Hearing on motion by parent for visitation/parenting time</p> <p>And all other not specifically listed above</p>	<p>Essential Proceedings</p> <p>Category 3</p> <p>3.c.(3)(C)(i)-(iv)</p>	<p>Presiding Judge authorizes juvenile judge to schedule and conduct proceedings remotely as outlined below:</p> <p>a. Jurisdiction and Disposition Hearings, if not constitutionally required will be heard in the same manner as Category 2 Jurisdictional and Disposition Hearings.</p> <p>b. Permanency Hearings (Uncontested Change of Plan) will be by paper submission only,</p> <p>i. Any Party may file a Motion for Judicial Determination Regarding Change of Permanency Plan Based on Paper Submission with:</p> <p>1. Supporting exhibits, including court report</p> <p>2. Certificate under UTCR 11.100 indicating whether there are any objections to the proposed judicial determination document;</p> <p>3. Certification that all parties consent to the Judicial Determination being made without a hearing;</p> <p>4. Certificate of service; and</p> <p>5. Specific findings the party is asking the court to make.</p> <p>c. Permanency Hearings (Reasonable Efforts for Title IV-E purposes only);</p> <p>i. The Department of Justice may file a Motion for Judicial Determination Regarding Reasonable or Active Efforts Based on Paper Submission with:</p> <p>1. Supporting exhibits, including court report</p> <p>2. Certificate under UTCR 11.100 indicating whether there are any objections to the proposed judicial determination document;</p> <p>3. Certificate of service</p> <p>4. Proposed judicial determination document for court to sign</p> <p>ii. If there are no objections, the court can consider whether to sign the judicial determination document.</p> <p>iii. Any party opposing the finding, may file a formal objection not later than 14 days from the date of service of the motion and include:</p> <p>1. supporting exhibits and a waiver of the right to a hearing, or</p> <p>2. supporting exhibits and a request for a remote hearing. The request must include the reason why paper review is not sufficient to protect the party's constitutional rights.</p> <p>iv. The court may set a telephonic hearing depending on the cause outlined in the motion and balancing health and safety</p> <p>d. Hearings on Motions to Dismiss, if not constitutionally required will be heard in the same manner as Category 2 Motions to Dismiss. Con't below.....</p>
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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Juvenile	Dependency con't		e. Hearings on Motions by Parents for Visitation i. Requests for hearings on Motions for Visitation shall be by motion. If all parties do not agree to the Motion for Visitation, the court may set a telephonic hearing depending on the cause outlined in the motion and balancing health and safety. UTCR 5.100 will apply to these motions.
Landlord Tenant	First appearance hearings	FED Proceedings 5.a.b.c.d.	Implement CJO 20-006 summons and notice process. Court clerk to send notice of hearing when court operations resume.
Landlord Tenant	Trials	FED Proceedings 5.e.	All FED trials set before 5/30/2020 to be postponed to a date after 5/31/2020.
Monday Civil Oral Motions	Oral Motion Hearings	Motions 6.a.,b.,c.	Unless a party has a statutory right to an in-person hearing, all oral motions are to be conducted remotely. UTCRRs requiring request for telephonic hearing are waived.
Monday PV	In custody	Essential Proceeding Category 1 3.a.(2)(A)	In person with social distancing. NOTE: If the defendant is released on a release agreement prior PV hearing, Pretrial is to ensure that the date set for the PV hearing is after 5/31/2020. If not, set a date on the release agreement for after 5/31/2020. Copies are sent to DA and defense counsel. Pretrial to notify clerk's office to reschedule the hearing.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Monday PV	Out of custody	Non-Essential Proceeding 4.a.(1)	Postpone all set through 5/30/2020 to a date after 5/31/2020. Clerks to send standard hearing notice Defense attorney may make motion to PJ for hearing due to exceptional circumstance (CJO 20-006 8.a.). If allowed in person, use social distancing.
Monday Show Cause	Protective order Immediate Danger Hearings	Essential Proceedings Category 2 3.b.(2)(B)(i)-(iii)	To be held on date scheduled. To be conducted remotely effective 4/6/2020 if feasible. If in person, use social distancing.
Monday Show Cause	Family Law Proceedings Pre and post-judgment status quo Enforce parenting time	Essential Proceedings Category 3 3.c.(3)(B)(i),(ii)	Postpone all set through 5/30/2020 to a date after 5/31/2020. Clerks to send standard hearing notice Party may make motion to PJ for hearing due to exceptional circumstance (CJO 20-006, 8.a.). If hearing is allowed, to be conducted remotely.
Monday Show Cause	Support enforcement	Non-Essential Proceeding 4.a.(1)	Postpone all set through 5/30/2020 to a date after 5/31/2020. Party may make motion to PJ for hearing due to exceptional circumstance (CJO 20-006, 8.a.). If hearing is allowed, to be conducted remotely. NEW SHOW CAUSE TO BE SET after May 31, 2020: Suspend SLR. Set all new hearing (non-protective order) after May 31, 2020 with communication to attorneys and ex parte judges.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Monday Small Claims	Hearings and trials	Non-Essential Proceeding 4.a.(1)	All small claims hearings thru 5/29/2020 to be set over to a date after 5/31/2020, Clerks to set over after consultation with PJ. Send notices to parties. Call off mediators.
OSH/SB 24 Hearings	All	Essential Proceeding Category 1 3.a.(2)(A)	To be conducted remotely. Only requires attorney appearances.
Presiding Judge Matters	All	Non-Essential Proceeding 4.a.(1)	To be eFiled. Presiding Judge to review on a case by case basis.
Probate Case Management	Temporary Guardianship or Conservatorship	Essential Proceedings Category 2 3.b.(2)(E)	To be conducted remotely as scheduled by probate judge
Probate Case Management	All other probate matters (see above)	Non-Essential Proceeding 4.a.(1)	All set through 5/29/2020 to be rescheduled to a date after 5/31/2020
Release Hearings	In custody	Essential Proceeding Category 1 3.a.(2)(A)	In person with social distancing or via remote proceeding at the discretion of the chief criminal judge. Expedited hearings to be scheduled by the chief criminal judge.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Sentencing	Out of custody	Non-Essential Proceeding 4.a.(1)	Postpone all set through 5/29/2020 to a date after 5/31/2020 Calendar clerks to send standard hearing notice. Attorney may make motion to PJ for hearing due to exceptional circumstance (CJO 20-006 8.a.). Whether remote or in person or in person is at the discretion of the presiding judge. If in person, to be conducted with social distancing.
Sentencing	In custody	Essential Proceeding Category 1 3.a.(2)(A)	In person with social distancing. NOTE: If the defendant is released on a release agreement prior sentencing, Pretrial is to ensure that the date set for sentencing is after 5/31/2020. If not, set a date on the release agreement for after 5/31/2020. Copies are sent to DA and defense counsel. Pretrial to notify clerk's office to reschedule the sentencing.
Traffic	Traffic violation offense first appearances	Non-Essential Proceeding 4.a.(1)	No in person proceeding will be conducted. Court staff to communicate options for ePay, telephone plea, telephone violations bureau. Take NG pleas over phone. People with matters not cited for a particular day –e.g. old cases seeking payment options and lifted suspensions should be directed to send the court a letter rather than appear in person. Those who show up voluntarily asked to write letters. Police agencies to be notified to cite after 5/31/2020.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Traffic	Trials on violation offenses.	Non-Essential Proceeding 4.a.(1)	Reset all through 5/30/2020 to a date after 5/31/2020. Calendar clerks to reset, notify and send trial by affidavit packets to all.
Treatment Court Dockets	All hearings	Essential Proceedings Category 2 3.b.(2)(F) and 3.b.(4)	PJ authorizes Treatment Court Judge to schedule and conduct via remote hearing as soon technology can be deployed.
Trial Call	Criminal In Custody Trial	Trials 2.a.(1)	Postpone all except those where failure to conduct the trial will result in a violation of rights. PJ may schedule to go forward before June 1, 2020 Jury trials are <u>required to be cancelled in advance</u> . No jury panels will be called in unless strictly authorized by the PJ. If case is preassigned, judge to review status with parties and discuss with PJ with consideration given to avoiding the need to call special jury panels.
Trial Call	Criminal Out of Custody Trial	Trials 2.c.	Reset all through 5/30/2020 to a date after 5/31/2020. The calendar clerk will work with the Presiding Judge on a reasonable schedule and send new trial notices. If case is preassigned, judge to review status with parties and discuss with PJ – no jury will be ordered.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Trial Call	Civil Trials	Trials 2.c.	All trials set through 5/30/2020 will be set over for a new date after 5/31/2020 without motion. The calendar clerk will work with the Presiding Judge on a reasonable schedule and send new trial notices. If case is preassigned, judge to review status with parties and discuss with PJ – no jury will be ordered.
Trial Call	Family Law Trial	Trials 2.c.	All trials set through 5/30/2020 will be set over for a new date after 5/31/2020 without motion. The calendar clerk will work with the Presiding Judge on a reasonable schedule and send new trial notices. If case is preassigned, judge to review status with parties and discuss with PJ – no jury will be ordered.
Trial Call	Immediate Danger Hearings - more than 2 hours.	Essential Proceedings Category 2 3.b.(2)(B)(i)	Telephonic appearance only. Exhibits to be submitted pursuant to CJO 20-006 section 7.
Trial Call	Termination Trials	Essential Proceedings Category 3 3.c.(3)(C)(i)	Leave on Trial Docket Refer to Juvenile judge who will determine if case is settled or can otherwise be resolved remotely or will postpone until after 5/31/2020.

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Docket	Case or Hearing Type	Amended CJO 20-006 category and paragraph	Protocol
Trial Call	Protective Order Cases New applications Hearings more than 2 hours	Essential Proceedings Category 2 3.b.(2)(B)(iii)	To be held on date scheduled. To be conducted remotely effective 3/31/2020 for new applications and 4/6/2020 for contested hearings.
Trial Call	Diversion Docket hearings	Non-Essential Proceeding 4.a.(1)	All cases set through 5/30/2020 will be set over for a new date after 5/31/2020. NOTE: If the defendant is released on a release agreement prior to a scheduled diversion hearing, Pretrial is to ensure that the date set for the diversion hearing is after 5/31/2020. If not, set a date on release agreement for after 5/31/2020. Copies are sent to DA and defense counsel. Pretrial notifies court clerk to postpone and send a new notice.