

IN THE SUPERIOR COURT
FOR THE COUNTY OF SKAGIT

IN THE MATTER OF) ADMINISTRATIVE ORDER
EMERGENCY RESPONSE TO COVID-19) NO. 22-3
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. 22-2;

WHEREAS, Skagit County, Washington State, and the nation in general are still in a state of pandemic related to the COVID-19 virus;

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;

WHEREAS, while the state of emergency continues to exist, health conditions appear to be improving following significant waves of the delta and omicron variants of the virus, with increased rates of vaccination, and decreasing incidences of hospitalization and death from the virus, and the Centers for Disease Control currently indicating Skagit County to have a low risk of transmission of the virus;

WHEREAS, the Governor's masking mandate, in effect since August 23, 2021, will be lifted in most settings, including schools and daycares, on March 12, 2022, with masking still required in certain limited environments such as corrections, healthcare, and public transportation;

WHEREAS, the court has significantly updated its technology and changed its procedures over the past two years to make the majority of its proceedings available to participants who choose to or must appear for hearings and trials remotely instead of physically in the courtroom, many of which formally took effect on September 1, 2021 as part of updated Local Court Rules;

WHEREAS, this court incorporates by reference all of its findings set forth in its previous administrative orders described above and now adopts an order to adjust the

court's operations in the interest of public health and safety while remaining consistent with the recommendations of public health officials;

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.** Skagit County Superior Court excludes anyone from the physical courtrooms or offices of Superior Court if they exhibit symptoms of COVID-19 or should be in quarantine or isolation based upon protocols established by the Centers for Disease Control and the Washington State Department of Health.

Participants in any in-person trials, including jurors, who become unavailable to appear in person for court must contact Court Administration at the earliest opportunity to advise of their situation, at which point the court will make arrangements to handle any questions and decisions through a remote appearance on the record. Other than participants of in-person trials, any person physically excluded by this order shall appear remotely for court.

Specific Prohibitions:

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 and/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

Regardless of vaccinations status, anyone who tests positive for COVID-19 may not be in Skagit County Superior Court's courtrooms or offices within five days of testing positive. When the symptoms later resolve and at least five days have

passed since the positive test, that person may enter court within the following five-day period only if wearing a surgical or higher grade face mask. Anyone exposed to a person with COVID-19 is required to mask in the courtrooms and offices of Skagit County Superior Court for the ten days following exposure. If the exposed person was not up-to-date on their vaccines, they are not permitted in the courtrooms or offices of Superior Court until at least five days have passed since exposure and they are not symptomatic.

A person is considered up-to-date on their COVID-19 vaccines if they completed their primary series of Pfizer or Moderna vaccine within the last six months, completed the primary series of Johnson and Johnson vaccine within the last two months, or have received their booster.

Anyone who is awaiting results of a COVID-19 test due to exposure or symptoms of the virus may not enter the courtrooms or offices of Superior Court.

The court adopts the most recent guidance that is detailed in the attached flowchart. Any future updated guidance issued by the Centers for Disease Control regarding quarantine, isolation, and protective measures to take upon recovery or exposure from the virus are adopted by the court.

2. MASKING AND PHYSICAL DISTANCING.

Beginning March 14, 2022, the wearing of face masks will be optional in all courtrooms except as detailed below:

- Masking will continue to be mandatory in the facilities where hearings under the Involuntary Treatment Act are conducted due to their location within healthcare facilities, which are required to continue masking.
- Masking will continue to be mandatory in the courtroom connected to the Skagit County Community Justice Center due to its location in a correctional environment where masks continue to be mandated.
- Masking will continue to be required in the jury trial that has been underway since March 7, 2022.
- Masking will still be required per public health guidance depending on close contact with individuals with COVID-19, recent recovery from COVID-19, and/or positively testing positive for COVID-19 in the ten-day period prior to appearing in court.

Where required, masks must be worn so they adequately cover the face and mouth. Masking is not required of children under the age of three.

Other than as specified above, the wearing of face masks in the courtrooms or offices of Superior Court is optional. Any litigant, juror, or observer has the right to wear a face mask, as do all employees and judicial officers of Skagit County Superior Court. Because wearing a mask is a personal decision that is influenced by many factors not relevant to the court proceedings, the court expects that the masking decisions of others will be respected and not be commented upon or create a negative or positive inference.

Further, distancing requirements will no longer be in place as of March 14, 2022 outside the context of jury trials. A person's desire to remain distanced from others shall be respected as practicable, however the size of some calendars may not be able to accommodate physical distancing upon request. Court users are encouraged to consider their personal risk and comfort before physically coming to the courthouse as opposed to appearing remotely.

The Court will maintain remote options for participants and observers of most hearings.

Some aspects of masking and physical distancing may be modified during in-person jury and bench trials upon advance order of the trial judge following a motion of a party or on the court's motion.

Masking and distancing requirements may be reimposed as the pandemic fluctuates or upon order of the judicial officer overseeing a proceeding.

Due to limited space and volume of appointments, masking and distancing may continue to apply when entering the courthouse facilitators' offices.

KN-95 masks will be available to anyone who wants or needs to wear face masks in the courtrooms and offices of Skagit County Superior Court.

3. **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."

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

Observers or litigants who are not providing testimony or argument may appear only with audio (either telephonically or over the internet without video). Any remote participants providing testimony or argument, including unrepresented parties, must have clear audio and video.

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.

4. **JURY TRIALS.** 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

Through at least April 1, 2022, the physical distancing requirements previously established for jury trials in Emergency Order 21-4 and the above-mentioned “COVID-19 Jury Trial Protocol” will continue to be observed. This may be extended or modified after April 1, 2022 by either the trial judge or further emergency order.

5. **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:

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

A party may request an in-person bench trial for any type of case by motion. The motion shall either be noted for the pre-trial conference or another regular calendar for that case type.

6. **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.

7. **ADULT CRIMINAL AND JUVENILE OFFENDER CASES: CALENDAR SIZES**

In-Custody Defendants. All in-custody defendants/respondents have the option to appear remotely if they so request or if COVID protocols limit them from physically entering the courtroom.

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.

8. **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.

9. **ADULT CRIMINAL AND JUVENILE OFFENDER CASES: SIGNATURES.** The court finds that obtaining signature from defendants/respondents 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 adult criminal and juvenile offender matters, defense counsel is not required to obtain signatures from defendants/respondents on orders to continue those cases until further notice. Defense counsel shall provide notice to defendants/respondents of all new court dates.
10. **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.
11. **RESERVATION.** The court reserves 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.
12. **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.
13. **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.
14. **EFFECTIVE DATE.** This order takes effect March 14, 2022 and shall remain in effect until modified or terminated by court order.

DATED this 11th day of March, 2022.



Laura M. Riquelme
Presiding Judge