

March 22, 2020

Greetings,

Some of the information contained in this posting is information you have already received. However, because of the multiple messages that have been disseminated I thought it best to send out this summary of the most relevant postings. Because of the length of this message, attached is a .pdf version so you can easily print it.

COVID-19 INFORMATION

Kitsap County Health Department: <https://kitsappublichealth.org/>.

Center for Disease Control: <https://www.cdc.gov/>.

Governor Inslee: <https://www.governor.wa.gov/>.

WHERE CAN I FIND THE EMERGENCY ORDERS ISSUED BY THE SUPREME COURT OF WASHINGTON AND KITSAP COUNTY SUPERIOR COURT?

All emergency orders are posted at the Kitsap County Superior Court website: <https://www.kitsapgov.com/sc/>.

As we proceed you may have ideas and suggestions on how to improve and modify the orders that have been issued. I am open and available to make changes. However, I think reoccurring piecemeal changes may cause confusion. Please reach out to your Team Captain with proposed changes.

Criminal Law: Chad Enright and Steve Lewis

Juvenile Law: Commissioner Matt Clucas

Domestic Relations: Lynn Fleischbein and Holly Banks

Guardianship & Probate: Carol Rainey

Civil: Phil Havers

KITSAP COUNTY SUPERIOR COURT SCHEDULING INFORMATION FOR CIVIL, GUARDIANSHIP, PROBATE AND FAMILY LAW PRACTITIONERS

In conjunction with The Supreme Court of Washington, Order No. 25700-B-606: all non-emergency civil and family law matters are hereby continued until after April 24, 2020.

Your non-emergency matters that are continued until after April 24, 2020 must be re-noted after April 24th and after you have conferred with the other side and our Court Scheduler, Jennifer Kluver at JKluver@co.kitsap.wa.us. Jennifer will be out of the office until at least March 27, 2020. She will be available via email.

ALL AGREED / UNOPPOSED ORDERS (EMERGENCY OR NOT) CAN BE SUBMITTED ELECTRONICALLY AT THIS EMAIL ADDRESS: superiorcourt@co.kitsap.wa.us. AGREED / UNOPPOSED ORDERS INVOLVING SCHEDULING WILL BE REVIEWED BY THE COURT AND SIGNED ONLY AFTER CONFERRING WITH THE COURT SCHEDULER. WE WILL DO OUR BEST TO REVIEW ALL ELECTRONIC SUBMISSIONS THAT ARE AGREED / UNOPPOSED WITHIN 48 HOURS OF RECEIPT.

HOW TO ACCESS THE COURT IF YOU HAVE AN EMERGENCY MATTER

Matters involving personal and community safety will receive the highest priority.

If you need to be heard on an emergency matter, your matter may be heard Monday through Friday from either 9:00 a.m. to 12:00 p.m. or 1:30 p.m. to 4:30 p.m.

There will not be 8:30 a.m. and 3:30 p.m. ex parte calendars.

All hearings must be conducted electronically. Please remember, you and your clients shall appear either by telephone or video unless it is impossible to do so.

These are the steps we want you to take if you need access for an emergency matter:

1.) Contact the other side to seek an agreed date and time to be heard. This must be done before you contact Jennifer. After you have made that contact, email Jennifer Kluver at: JKluver@co.kitsap.wa.us. If it is not clear in your email to her that you have met this requirement, Jennifer's question for you in response will be: "Have you spoken to the other side?" [The Bench recognizes that some emergency matters do not require notification to the other side if such notification may endanger personal safety and the like. This remains in play as it always has.]

2.) If you have an agreed date and time, the Court will make every attempt to accommodate that.

3.) If you have made reasonable attempts to contact the other side without success, or the other side does not agree that the matter is an emergency, let Jennifer know and you will be given a date and time to appear electronically. Remember, Jennifer is not the gatekeeper as to whether your matter qualifies as an emergency. The Court is. The Court will exercise its discretion as to whether reasonable efforts have been made to contact the other side. If it is unclear, you will be asked by the judge what those efforts have been. The Court will also exercise discretion and, upon review of the submissions, summarily strike the matter if the Court deems it is not an emergency. If that happens you will be notified.

NOTE: A foreseeable issue centers around consistency from the Bench with regard to judicial determinations as to what constitutes an emergency matter. The orders entered last week should not only assist you, but also the Bench as to what should be heard on an emergency basis. Whether your matter is deemed an emergency will be based on the nature of the issue and not the availability of a judge. Emergency matters will be heard by a judge as soon as possible and in coordination with the Court Scheduler.

4.) Please submit all necessary documents **and a proposed order** to the following email address: superiorcourt@co.kitsap.wa.us at least two (2) hours before the time your hearing is scheduled. These submissions are bench copies. You will be responsible for filing your original documents with the Kitsap County Superior Court Clerk's Office pursuant to their policies.

5.) The Court will call you on the phone number you have provided to Jennifer as close in time as possible to when the hearing has been set. If you are requesting to appear via video, you will need to call the number that you are provided by the Court at the time of your scheduled hearing. Please be aware that while we do have video capabilities, the resource is limited. The Court cannot guarantee you will have access to a video appearance. Your matter may have to be heard telephonically.

6.) Following the hearing, the Court will sign an order. The order will be placed in our filing basket for processing with the Clerk's office. You can obtain copies of the order through the Clerk's office consistent with their policies.

WHAT ABOUT SERVICE OF MY DOCUMENTS TO THE OTHER SIDE?

How soon do I have to serve the other side with my submissions? As soon as possible. By design, we are not setting a firm deadline. But please don't delay. If the Court determines there was unnecessary delay in providing documents to the other side, the Court may exercise the discretion it always has to continue the matter.

DOES MY CLIENT HAVE TO BE AVAILABLE?

Should I have my client available or are these emergency matters going to be argued based solely on the declarations and submissions provided to the Court? The Court will conduct emergency hearings based upon argument and the written submissions. However, it is common practice to have clients available should the court have questions or need additional information. Whether you have your client available electronically is your decision.

MATTERS INVOLVING THE JUVENILE DEPARTMENT OF KITSAP COUNTY SUPERIOR COURT – FROM THE DESK OF COMMISSIONER CLUCAS

Pursuant to Kitsap County Superior Emergency Administrative Order No. 2020-1, Juvenile and Family Court Services is adopting the following policies:

1. For all Juvenile Offender and ARY/CHINS cases:
 - a. All first response Truancy hearings shall be continued until after April 24 or until the Governor reopens schools.
 - b. All ARY/CHINS petitions and hearings shall be conducted by telephone or video conferencing.
 - c. Bench warrants for cases where the juvenile's whereabouts are unknown will continue to be requested by Court Service Officers. Other requests for warrants will be requested on a case by case basis with supervisor approval.
 - d. Probation violations for cases where a juvenile's whereabouts are unknown will be placed on the next available in-custody calendar.
 - e. Probation violations requiring a motion to be filed for violation of probation conditions shall be set for a hearing to be held in May 2020.
 - f. Treatment courts shall continue but only for cases involving youth in violation of conditions and where there is the potential for possible sanctions.
2. For all Dependency cases from now through April 24, 2020, the only dependency matters that will be heard are:
 - a. Preliminary Appearances and continued Shelter Care hearings with telephonic appearances are approved for all parties. Any shelter care order generated will be sent electronically by the Assistant Attorney General to all parties for review and approval before entry of the order with the Court. Neither original nor electronic signatures by attorneys are needed if not available.
 - b. Emergency motions (immediately critical to child safety and health) with telephonic appearances being approved for all participants. Agreed orders can be submitted to the Court ex parte. Any orders generated after a contested hearing will be circulated among all counsel for review and approval before entry of the order with the Court. Neither original nor electronic signatures by attorneys are needed if not available.

c. First-set fact-finding hearings with telephonic appearances being approved for all participants. Agreed orders can be submitted to the Court ex parte. Contested matters will be set over to a date after April 24, 2020.

d. Termination response hearings where a parent has been served by publication or personal service. Telephonic appearance is approved for all parties. If a default is to be taken against a parent, the lobby will be called and, if no appearance, default testimony can be presented. Contested matters will be set over to a date after April 24, 2020.

e. Termination and dependency trials where all parties are in agreement with proceeding forward. Telephonic appearance is approved for all parties. If all parties are not in agreement with proceeding forward, the trial shall be set over to a date after April 24, 2020.

f. Legally free and Extended Foster Care docket shall be conducted based on written reports and without argument or oral presentation.

3. The Court finds good cause for the suspension of all other dependency dockets and the delays resulting from this suspension, and orders that all timelines for the timely disposition of dependency cases are stayed during this period of suspension.

4. All other dependency matters are suspended until after April 24, 2020. Any dependency case currently set for any other type of hearing between now and April 24, 2020 will be rescheduled for the same type of hearing five weeks from the currently scheduled hearing date. If the fifth week falls on a holiday, the matter will be set out for six weeks.

5. The Court finds that obtaining signatures from clients for orders continuing existing matters places significant burdens on attorneys. Therefore, for all matters covered in Section 4, this Order serves to continue those matters and orders of continuance will be prepared for the Court to sign. Additionally:

a. Attorneys are not required to obtain signatures from their clients on orders to continue dependency matters through April 24, 2020.

b. Neither original nor electronic signatures by attorneys are needed if not available.

c. Attorneys are directed to provide notice to their clients of new court dates.

6. Adoptions will be postponed until at least May 1, 2020. If there are emergency circumstances requiring the adoption to occur sooner, the parties shall contact Court Scheduler Jennifer Kluver at jkluver@co.kitsap.wa.us to work out procedures to proceed either by submission of written declarations or by telephone/video appearance.

KITSAP COUNTY SUPERIOR COURT OFFICE INFORMATION

As of this writing, Kitsap County Superior Court will be open the week of March 23rd. [Remember, the Kitsap County Clerk's Office is a separate and independent entity. I do not speak for the Clerk's Office or their operations.] Due to Health District recommendations specific to Kitsap County Superior Court, we will be short-staffed this week. Court Scheduler Jennifer Kluver will be working from home. Her email address is: JKluver@co.kitsap.wa.us. Please be mindful that she may be receiving an inordinate volume of inquiries. Please be patient. The Court Scheduler will, as best as possible, accommodate agreed dates and times for your hearings. At the moment, I'm not able to gauge how busy we will be.

EMERGENCY EXECUTIVE ACTION REGARDING RELEVANT STATUTES

Chief Justice Stephens has invited us to contribute to the conversations she will be having with Governor Inslee early this week about possible emergency executive orders regarding statutes relevant to our work. I have already received some excellent feedback. If you have any specific recommendations please share those with the Team Captains. Chief Justice Stephens has requested that she receive any input by noon on Tuesday, March 24th. Time is of the essence.

One last personal anecdote. I was watching a movie this weekend and a commercial came on advertising a candy bar. In this commercial people were shaking hands, giving each other high-fives and hugging. My immediate reaction was how irresponsible it is to air a commercial that so blatantly violates all of the social distancing messaging we have received. I had to remind myself that the movie I was watching was recorded on my DVR weeks ago. Please continue to take all necessary steps to help contain the virus.

Yours, Kevin

Kevin Hull

Presiding Judge

Kitsap County Superior Court