

**KITSAP COUNTY DISTRICT COURT
STATE OF WASHINGTON**

IN RE THE KITSAP COUNTY COURTHOUSE AND THE
PANDEMIC OUTBREAK OF THE CORONAVIRUS
DISEASE 2019 (COVID-19)

No. 2020-25B
AMENDED EMERGENCY
ADMINISTRATIVE ORDER RE –
DISTRICT COURT COVID-19 2020
BUDGET REDUCTION (INFRACTION
MATTERS)

THIS ADMINISTRATIVE ORDER is being issued in response to the current pandemic outbreak of the Coronavirus Disease 2019 (COVID-19).

On July 21, 2020, this Court entered Emergency Administrative Order No. 2020-25 Regarding District Court COVID-19 2020 Budget Reduction.¹ This Emergency Administrative Order is incorporated by reference herein.

The impact of the 2020 COVID-19 budget reduction on the Kitsap County District Court remains unchanged. As discussed in Sections 1-3 of Order 2020-25, District Court is unconstitutionally underfunded and remains unable to absorb the loss of 120 hours per week provided by the three previously funded full-time positions.

Order 2020-25 (Sections 4-7) clearly defined the priorities of District Court civil matters given current ongoing budget reductions, suspended all infraction hearings and expanded infraction decisions on written statements.

These sections read as follows -

“4. CIVIL ACTIONS FILED IN DISTRICT COURT

Since criminal cases generally take precedence over civil cases,² the District Court will explore civil actions which may be able to be temporarily suspended.

The following list includes the most common civil actions³ the Legislature and Governor have granted District Court jurisdiction to hear –

- Civil actions⁴

¹ Hereafter “Order 2020-25.”

² *See, e.g.*, CrRLJ 3.3(a)(2) – “Criminal trials shall take precedence over civil trials.”

³ Less common District Court civil actions include – forfeiture of firearms (RCW 9A.41.098), forfeiture of drug assets (RCW 69.50.505(5)), child trespass notice (RCW 9A.44.193(4)), dangerous dog determination appeal (RCW 16.08.080(4)), and potentially dangerous animal declaration appeal (Kitsap County Code 7.12.010(j)).

⁴ RCW 3.66.020.

- Civil protection order actions⁵
- Civil protection order surrender and prohibition of weapons actions⁶
- Impoundment actions (vehicle and vessel)⁷
- Infraction actions⁸
- Name change actions⁹
- Small claims actions¹⁰

5. PRIORITIZING DISTRICT COURT CIVIL ACTIONS

Due to COVID-19 budget reductions, District Court is now tasked with deciding which types of civil actions it is temporarily no longer able to hear because of insufficient staffing. The focus must be on the impact to the public in prioritizing civil actions.¹¹ District Court is constitutionally required to hear and decide the following civil actions –

- Civil Protection Order Actions. The Legislature has repeatedly found the importance of creating civil actions so victims can seek judicial protection from perpetrators.¹² Civil protection order actions are District Court’s highest civil action priority.¹³
- Civil Protection Order Surrender And Prohibition Of Weapons Actions. The Legislature created civil protection order surrender and prohibition of weapons actions in response to the heightened risk of lethality to petitioners when respondents become aware of court involvement.¹⁴ Weapons surrender and prohibition actions are District Court’s highest civil action priority.¹⁵

⁵ RCW 7.90 (sexual assault), 7.92 (stalking), 7.94 (extreme risk), 10.14 (harassment), and 26.50 (domestic violence).

⁶ RCW 9.41.800 – .810.

⁷ RCW 46.55.120(2)(b) (vehicle), and 79A.60.045(15) (vessel).

⁸ District Court has jurisdiction to hear and decide alleged infraction violations of state law – RCW 3.66.010 (generally); 46.08.190 and 46.63.040 (traffic); 7.80.010 (civil); and 7.84.040 (natural resources).

District Court also has jurisdiction to hear and decide alleged civil infraction violations authorized by the Kitsap County Code (“KCC”), including – Kitsap Public Health District violations (*e.g.* food service regulations and solid waste regulations), ch. 9.52 KCC and ch. 7.05 RCW; zoning code violations, Title 17 KCC; and building and construction code violations, Title 14 KCC.

⁹ RCW 4.24.130.

¹⁰ RCW 12.40.010.

¹¹ All 2019 caseload filing data is from Administrative Office of the Courts, *Annual Courts of Limited Jurisdiction 2019 Caseload Reports*, available at <http://www.courts.wa.gov/caseload> (last visited July 14, 2020).

¹² RCW 7.90.005 (sexual assault), 7.92.010 (stalking), 7.94.010 (extreme risk), 10.14.010 (harassment), and Laws of 1992, Ch. 111, §1 (domestic violence).

¹³ In 2019, 392 civil protection actions were filed in District Court. These cases involve an initial *ex parte* temporary hearing, followed by a full trial on the allegations. These cases are very time consuming because most litigants are unrepresented, and deserve a full opportunity to present their case. As of July 20, 2020, 202 protection order cases have been filed in District Court his year.

¹⁴ RCW 9.41.801(1).

¹⁵ Whenever a court grants a temporary or full civil protection order, it shall sua sponte consider ordering the surrender and prohibition of weapons. RCW 9.41.800.

- Name Change Actions. A person's name has great significance and importance to that person as well as those known to them. Washington has had a name change statute since 1877. District courts have almost sole jurisdiction to grant a person's name change petition.¹⁶ The only limited exceptions to District Court jurisdiction are the grant of power to superior courts to change the name of – (1) a party in a dissolution action;¹⁷ (2) a child in an adoption action;¹⁸ and (3) a domestic violence victim who wants the name change action sealed due to safety concerns.¹⁹

Almost everyone residing in Kitsap County seeking a name change must file a name change action in District Court. Name change actions have been suspended due to the pandemic since March 13, 2020. District Court just began hearing name change actions again on July 6, 2020.

Additional suspension of name change actions would leave no other option available for a person seeking a name change. Name change actions are District Court's highest civil action priority.²⁰

- Civil Actions. RCW 3.66.020 grants jurisdiction to district courts over a plethora of civil actions where the value of the claim or amount at issue does not exceed \$100,000. Civil actions include – contracts; recovery of money; personal injury; damage to property; replevin; penalty; bond for payment of money; fraud in the sale, purchase or exchange of personal property; confession of judgment; writs of garnishment, attachment and replevin; commercial electronic mail; and municipal court collections.

While superior courts also have jurisdiction over these matters, some plaintiffs prefer filing their actions in district courts due to the limited discovery permitted.²¹ The limitation on discovery may result in a quicker trial date and quicker resolution of the action.

Civil actions are a District Court priority because litigants need access to the courts for prompt resolution of their actions.²²

- Small Claims Actions. Washington has had a small claims action since 1919.²³ These actions must be filed in a district court.²⁴ Attorneys are generally not permitted to represent litigants in a small claims action.²⁵ The amount claimed may not exceed \$10,000 in cases brought by a natural person and \$5,000 in all other cases.²⁶

Civil litigation can be complicated. There are many rules litigants must carefully follow or risk rejection of their position. Small claims actions were created to allow plaintiffs seeking no more than the jurisdictional limit to handle their cases on their own. A multiple day or week regular civil case can be handled in an hour or so in District Court. Each party presents its

¹⁶ RCW 4.24.130(1).

¹⁷ RCW 26.09.150(3).

¹⁸ RCW 26.33.250(1)(d).

¹⁹ RCW 4.24.130(5).

²⁰ In 2019, 426 name change actions were filed in District Court.

²¹ See, e.g., CRLJ 26 and CR 26 – 37.

²² In 2019, 4,212 civil actions were filed in District Court.

²³ Laws of 1919, ch. 187.

²⁴ RCW 12.40.010.

²⁵ RCW 12.40.080(1).

²⁶ RCW 12.40.010.

testimony and exhibits and the court thereafter promptly decides the dispute. The hearing itself is deliberately informal, “with the sole object of dispensing speedy and quick justice between the litigants.”²⁷ The judge in a small claims action shall give judgment and make such orders as the “judge may deem to be right, just, and equitable for the disposition of the controversy.”²⁸

Small claims actions are a District Court priority because litigants need access to the courts for prompt resolution of their relatively minor monetary disputes and only a district court has jurisdiction to hear a small claims action.²⁹

- **Impoundment Actions.** A person may challenge a vehicle impoundment when the person’s vehicle is impounded at the direction of law enforcement or impounded by a person having control or possession of private property upon which a vehicle is located.³⁰ District courts have sole jurisdiction to hear impoundment actions occurring in unincorporated portions of the county as well as impoundments authorized by the state or its agents.³¹

Washington’s vessel impoundment statute has a process somewhat similar to vehicle impoundment actions.³² District courts have similar sole jurisdiction to hear vessel impoundment actions.³³

Impoundment actions are a District Court priority because litigants need access to the courts for prompt resolution and only a district court has jurisdiction to hear most impoundment actions.³⁴

- **Infraction Actions.** Infractions are noncriminal violations of the law defined by statute or ordinance.³⁵ District Court has jurisdiction to hear several types of infraction actions.³⁶ Although a district court’s jurisdiction is generally limited to adult offenders, district courts have jurisdiction over juveniles age 16 or 17 for certain offenses.³⁷

Although a violation of law, infraction offenses do not include the possibility of jail as a sanction. The vast majority of infraction sanctions involve only a monetary penalty.³⁸ A few infraction offenses include traffic school and/or community service as well as a monetary penalty.³⁹

An infraction is deemed committed unless a person who is served with the notice of infraction responds to the court within 15 days of personal service, or within 18 days if the notice is served by mail.⁴⁰

²⁷ RCW 12.40.090.

²⁸ RCW 12.40.080(3).

²⁹ In 2019, 324 small claims actions were filed in District Court.

³⁰ RCW 46.55.010(4); .120(2)(b).

³¹ RCW 46.55.120(2)(b).

³² RCW 79A.60.045.

³³ RCW 79A.60.045(15).

³⁴ In 2019, 41 impoundment actions were filed in District Court.

³⁵ Infraction Rules for Courts of Limited Jurisdiction (“IRLJ”) 1.1(a).

³⁶ Traffic (RCW 46.08.190, 46.63.040(1), and 3.66.010(1)); civil (RCW 7.80.010(1)); and natural resources (RCW 7.84.040(1)).

³⁷ RCW 13.04.030(1)(e) (traffic, fish, boating or game offenses, and traffic or civil infractions).

³⁸ IRLJ 6.2; RCW 46.63.110(1), (3) (traffic); RCW 7.80.120 (civil); RCW 7.84.100 (natural resources). A court may require the performance of community restitution in lieu of a monetary penalty. IRLJ 3.3(e), 3.4(c).

³⁹ See, e.g. RCW 46.61.526(5) (negligent driving in the second degree involving a vulnerable victim).

⁴⁰ IRLJ 2.4(a), 2.5.

A person may respond to a notice of infraction in one of several ways – (1) pay the monetary penalty entered on the notice of infraction; (2) challenge the determination that the infraction was committed by requesting a contested hearing; (3) admit the infraction was committed but request a hearing to explain mitigating circumstances justifying lowering the monetary penalty entered on the notice of infraction; or (4) submit a written statement either contesting the infraction or explaining mitigating circumstances justifying lowering the monetary penalty.⁴¹

A contested or mitigation infraction hearing shall be scheduled for not less than 14 days from the date a written notice of hearing is sent by a court, nor more than 120 days from the date of the notice of infraction.⁴² A decision on written statement shall take place within 120 days after a defendant filed the response to the notice of infraction.⁴³

The impact of delaying a contested or mitigation hearing on the person cited with an infraction is negligible because no monetary or other sanction will be imposed during any delay.

The executive branch is certainly entitled to a timely hearing on its allegation that a person violated the law by committing an infraction. While a delay in scheduling infraction hearings may postpone the ability of the executive branch to collect infraction monetary penalties, the impact on the general public is negligible.⁴⁴

Infraction actions are the lowest priority of civil actions District Court is constitutionally mandated to hear and decide.

6. ALL INFRACTION HEARINGS ARE SUSPENDED

COVID-19 has had a devastating impact on lives, employment and the American way of life. The Commissioners have promptly responded to the county's looming budget shortfall now in an attempt to maintain public services throughout the rest of 2020.

Infraction actions are the lowest priority actions District Court is constitutionally mandated to hear and decide. Infraction hearings constitute 5.4% of the District Court calendar.⁴⁵ Even though District Court has 14% fewer staff due to the COVID-19 budget reduction, it should be able to temporarily staff the remaining 94.6% of court calendars if all infraction hearings are suspended.

⁴¹ IRLJ 2.4(b). Option 4 permitting a decision by written statement must be approved by local rule. IRLJ 2.4(b)(4). District Court has approved infraction decisions by mail. Kitsap County District Court Local Rule LIRLJ 3.5.1.

⁴² IRLJ 2.6(a)(1) (contested hearing), 2.6(b)(1) (mitigation hearing).

⁴³ IRLJ 3.5(a)(1) (contested hearing), 3.5(a)(2) (mitigation hearing).

⁴⁴ Courts do not exist as collection agencies for local government. *In re Hammermaster*, 139 Wn.2d 211, 249-50 (1999) (Talmadge, J., concurring).

Cash-register courts with a focus on local government financial interests do not act as a neutral arbiter of the law and are in violation of the Fourteenth Amendment due process and equal protection requirements. United States Department of Justice Civil Rights Division, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT (Mar. 4, 2015), at 3.

⁴⁵ Per week, District Court is scheduled to hold five morning and three afternoon calendars in courtroom 104, five morning and five afternoon calendars in courtroom 105, five morning and five afternoon calendars in courtroom 201, and five morning and four afternoon calendars in courtroom 203.

District Court has a total of 37 court calendars per week. The infraction calendars are held weekly on Monday afternoon (contested) and Tuesday afternoon (mitigation) in courtroom 203. The two weekly infraction calendars are 5.4% of total calendars District Court hears each week.

Under court rule, infraction defendants have a right to a hearing within 120 days from the date of the notice of infraction. As a result of the COVID-19 budget reduction, the 120-day hearing requirements of IRLJ 2.6(a)(1) (contested hearings) and IRLJ 2.6(b)(1) (mitigation hearings) are suspended.⁴⁶

Accordingly, effective immediately all in-court District Court infraction hearings are suspended and continued to March 2021 (or later) based upon courtroom maximum caseload requirements.

7. EXPANDED INFRACTION DECISIONS ON WRITTEN STATEMENTS

Although District Court has suspended all in-court infraction hearings, District Court will expand its infraction decisions on written statements. Infraction defendants will be provided an option to seek resolution of their cases by mail rather than having to appear in court in 2021.⁴⁷ Defendants may also choose to accept case resolution offers made by the Kitsap County Prosecutor's Office.⁴⁸

Hopefully, District Court has enough staff to timely process these written requests to resolve infraction matters by mail.”

With these considerations in mind; NOW, THEREFORE, it is hereby ORDERED that Section 6 of Order 2020-25 is amended to read as follows –

6. ALL INFRACTION HEARINGS ARE SUSPENDED

COVID-19 has had a devastating impact on lives, employment and the American way of life. The Commissioners have promptly responded to the county's looming budget shortfall now in an attempt to maintain public services throughout the rest of 2021.

Infraction actions are the lowest priority actions District Court is constitutionally mandated to hear and decide. Infraction hearings constitute 5.4% of the District Court calendar.⁴⁹ Even though

⁴⁶ The Chief Justice has granted authority to courts “to adopt measures to protect health and safety that are more restrictive than this Order, as circumstances warrant, including by extending as necessary the time frames in this Order.” *In the Matter of Statewide Response by Washington State Courts to the COVID-19 Public Health Emergency* No. 25700-B-626 (Amended Third Revised and Extended Order Regarding Court Operations) (May 29, 2020).

Due to the COVID-19 budget reduction, District Court now lacks sufficient staff to ensure the health and safety of infraction litigants who seek to have their infraction matters heard in person by the Court.

⁴⁷ These options will be included with the Court's notice of hearing which is mailed to infraction defendants who request a hearing.

⁴⁸ The Prosecutor's offers will also be included in the Court's hearing notice.

⁴⁹ Per week, District Court is scheduled to hold five morning and three afternoon calendars in courtroom 104, five morning and five afternoon calendars in courtroom 105, five morning and five afternoon calendars in courtroom 201, and five morning and four afternoon calendars in courtroom 203.

District Court has a total of 37 court calendars per week. The infraction calendars are held weekly on Monday afternoon (contested) and Tuesday afternoon (mitigation) in courtroom 203. The two weekly infraction calendars are 5.4% of total calendars District Court hears each week.

District Court has 14% fewer staff due to the COVID-19 budget reduction, it should be able to continue to staff the remaining 94.6% of court calendars if all infraction hearings are suspended.

Under court rule, infraction defendants have a right to a hearing within 120 days from the date of the notice of infraction. As a result of the COVID-19 budget reduction, the 120-day hearing requirements of IRLJ 2.6(a)(1) (contested hearings) and IRLJ 2.6(b)(1) (mitigation hearings) are suspended.⁵⁰

Accordingly, effective immediately all in-court District Court infraction hearings are suspended and continued to March 2022 (or later) based upon courtroom maximum caseload requirements.⁵¹

It is further ORDERED that the remaining provisions in Order 2020-25 continues in full force and effect.

DATED – FEBRUARY 1, 2021



CLAIRE A. BRADLEY
Presiding Judge
Kitsap County District Court

⁵⁰ The Chief Justice has granted authority to courts “to adopt measures to protect health and safety that are more restrictive than this Order, as circumstances warrant, including by extending as necessary the time frames in this Order.” *In the Matter of Statewide Response by Washington State Courts to the COVID-19 Public Health Emergency* No. 25700-B-626 (Amended Third Revised and Extended Order Regarding Court Operations) (May 29, 2020).

Due to the COVID-19 budget reduction, District Court now lacks sufficient staff to ensure the health and safety of infraction litigants who seek to have their infraction matters heard in person by the Court.

⁵¹ If staffing is funded at an adequate level to handle these matters in 2021, this Order will be rescinded and District Court will resume in court infraction hearings as soon as is practicable.