

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR BENTON AND FRANKLIN COUNTIES

IN RE THE MATTER OF)	Nos. 20-2-00001-03 (BCSC)
THE RESPONSE BY)	20-2-50001-11 (FCSC)
BENTON & FRANKLIN)	
SUPERIOR COURT TO THE COUNTIES)	ADDENDUM TO
PUBLIC HEALTH EMERGENCY)	EMERGENCY ORDER
IN BENTON & FRANKLIN COUNTIES)	#05-03-A
AND THE STATE OF WASHINGTON)	re: Criminal Matters
)	Effective August 10, 2020
)	(AMENDED)

The public health emergency in Washington State posed by the coronavirus 2019 (COVID-19) continues to evolve and requires modification of Emergency Order # 1 (issued March 16, 2020), Emergency Order #2 (issued March 19, 2020), Emergency Order #3 (issued April 22, 2020), and Emergency Order #4-03 & 3A & 3B (issued May 4, May 18 and June 1, 2020). The Court has in mind the factual record of these Emergency Orders and incorporates the same by reference, and in particular has in mind the following:

1. On May 28, 2020, Washington Supreme Court Chief Debra Stephens entered Order No. 25700-B-625, revising and superseding prior orders and stating as follows:

“7. Out of custody criminal matters and **juvenile offender matters** may be continued until after June 1, 2020, except . . . (2) matters that require in-person attendance but should in the in the interests of justice be heard immediately, provided that any such hearings must strictly comply with current public health mandates.”

2. On May 29, 2020, Washington Supreme Court Chief Debra Stephens entered Order No. 25700-B-626, revising and superseding prior orders and stating as follows:

“8. Many out of custody criminal and **juvenile matters** have been continued until after June 1, 2020. After that date, courts should hear matters by telephone, video or other means that do not require I person attendance when appropriate. In addition, courts may hear matters that

require in person attendance if those hearings strictly comply with social distancing and other public health measures.” (emphasis added)

3. Emergency Order #4-03-B, effective June 1, 2020, Benton and Franklin Superior Court ordered that:

“5. Counsel may request that hearings **or bench trials** for both criminal and **juvenile matters** to be heard immediately “in the interests of justice” pursuant to Second Revised Supreme Court Order 25700-B-625, but shall indicate the number of necessary parties (other than those parties deemed essential) for the hearing, whether the moving party is requiring those necessary parties appear in person or by other means, and shall, if a party is covered by the Governor’s order which would otherwise prevent attendance, indicate why the interests of justice support holding the hearing and requiring the attendance of parties. The moving party shall indicate whether either the non-moving party or witnesses objected either to the hearing of the motion or the manner in which parties and witnesses are suggested to appear[.]” (emphasis added)

“6. The Court recognizes that any party of interest may request that a matter be heard during this period. If counsel or a party believes that any criminal matter can be heard without a necessary party or witness being compelled to violate the current state of the Governor’s emergency orders based on the current capacity of court facilities, or believes that the recognized ‘essential’ nature of court proceedings should require the attendance of a party or witness, they may bring a motion to have the matter hearing [sic] in the same manner and under the same process for submitting emergency and ‘interests of justice’ motions.”

4. Most counties in the State of Washington have advanced to Phase 2 or 3 of the Governor’s phased reopening plan, known as “Safe Start.” Benton and Franklin Counties are two of the five counties that remain in Phase 1.5 (Modified Phase 1) restrictions. As of the date of this Order, COVID-19 infection rates appear to be plateauing or decreasing in both Counties. Some counsel and many juvenile Respondents on Offender Dockets elect to appear by telephone or videoconference.

5. The Court recognizes that Juvenile Offender Trials are necessary and that court operations are essential. Nevertheless, the Court concludes that, it is not reasonable to believe, under the totality of circumstances (including but not limited to the current emergency restrictions on members of the public and the need to prepare procedures to comply with the guidance in the aforementioned Washington Supreme Court Order and instructions), the Court cannot conduct bench trials, while sufficiently protecting the rights of parties nor the safety of parties and participants, including potential witnesses, through August 24, 2020.
6. The Court will advise stakeholders of its protocol for pre-trial case management which will delineate the mandatory procedures and requirements of counsel that shall be deemed a prerequisite before any case will be deemed ready to proceed to bench trial

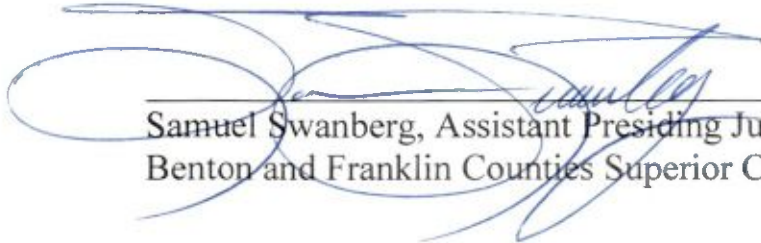
NOW, THEREFORE it is hereby ORDERED, pursuant to the authority of Washington Supreme Court Order NO. 257000-B-626, and the authority as the Presiding Judge of Benton & Franklin Counties, that the following shall be in effect:

A. Juvenile Offender Trials: No Juvenile Offender Trial will be held until after August 24, 2020. The Court will set in place mandatory prerequisite procedures to assure that any Juvenile Offender Trials commenced on or after the week of August 24, 2020 to comply with COVID-19 restrictions and Benton Franklin County Health District guidance.

B. Prior Orders: This emergency Order supplements the prior emergency orders which remain in full force and effect to the extent that they are not inconsistent with this order.

This Order may be further extended or modified.

DATED this 7 day of August, 2020.


Samuel Swanberg, Assistant Presiding Judge
Benton and Franklin Counties Superior Court