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## When Court is Back in Session: The Plan for Washington Courts to Resume During COVID-19

*June 23,  
2020*



**A**s of late June, nearly 40% of Washington counties had returned to almost normalcy, with 15 counties in Phase 3 of Gov. Jay Inslee's Safe Start Plan, 19 in Phase 2, and only five in Phase 1 or modified Phase 1. Yet as many Washingtonians slowly venture back into communities, the complexities of reopening courts pose even more challenges.

Everything from social distancing in a jury trial to managing a backlog of cases remains top of mind for officials at all levels of the state court system. A review of county superior court websites reveals that many courts continue to prioritize virtual proceedings while developing methods to handle in-person interactions safely.

“It is unclear how many hearings a court will allow to be virtual once the pandemic ends, but currently the majority of hearings are being done virtually,” said Russell Brown, executive director of the Washington Association of Prosecuting Attorneys.

The Washington Supreme Court has issued a series of four orders since the start of the COVID-19 crisis, culminating in the [suspension of jury trials](#) until at least July 6. With that date approaching, the court's Resumption of Jury Trials Workgroup recently released [guidance for resuming jury trials](#). The [Board for Judicial Administration's Court Recovery Task Force](#) also held its first meeting June 15 and is chartered through June 2022 to "develop and implement strategies to ensure that every court can provide fair, timely, and accessible justice; and provide recommendations for ongoing court operations and recovery after the public health emergency subsides."

County courts have developed local guidelines. [San Juan](#) and [Skamania](#) counties, for example, have created livestreams of court proceedings for the public. King County issued guidance for [members of the public representing themselves pro se](#) on things like domestic violence protection orders and family law matters. As courts prepare to call for jurors, Clark County published an [informational letter to potential jurors](#) and Pierce County even drafted a [letter to jurors](#) during Jury Appreciation Month to say "we are missing our jurors, and have to share our appreciation in a different way."

In Clallam County, Presiding Judge Brent Basden explained that all of the court's motion calendars are conducted over Zoom, and the court created dedicated Zoom meetings for each of its physical rooms to mimic a more normal and accessible scheduling system.

Although the courthouse is open, anyone entering is asked to maintain social distance and court officials are reorganizing courtrooms with safety in mind by, for example, spreading a jury throughout the room rather than cramming them into a jury box. And a committee created to plan around anticipated court-reopening issues developed safety procedures such as how to submit evidence so it can be safely handled during a hearing.

But three months of COVID-19 closures and delays have built up a backlog of cases in many places. Many legal professionals expect spikes in domestic violence cases as more survivors are able to leave homes shared with their abusers, as well as a pending wave of evictions and other landlord-tenant legal issues after [Gov. Jay Inslee's extended moratorium on evictions](#) expires Aug. 1.

Even with safety precautions in place, courts might face challenges in compelling residents to appear for jury duty, and the safety of physical spaces will vary from court to court.

"We have kind of had everything working against us, frankly," said David Gardner, outgoing president of the Spokane County Bar Association (SCBA). Local officials in that county initially struggled to procure protective equipment and still face challenges in figuring out how to socially distance people in a 125-year-old courthouse.

SCBA members are working with court officials to develop tips for virtual hearings and making preparations to reopen courts. They recently published articles in their [bimonthly newsletter](#) such as "Boardroom to Courtroom; Pro Tips for Conducting Virtual Meetings" and "Post-Corona Tips From the Bench."

The SCBA is also encouraging members to stress the new realities of a COVID-19 court system to clients, emphasizing that delays will be the norm and judges will be overwhelmed particularly in a county that needs at least two additional judges, Gardner said.

There are some glimmers of a silver lining from COVID-19. Now that lawyers and judges have been forced to work out the early kinks of conducting their work remotely, more remote capabilities could mean greater access to justice for clients. In fact, in [The National Judicial College](#) published the responses to its June Questions of the Month in which, out of 363 responses from judges, 47% noted improvements in appearance rates for virtual hearings. (The remaining 53% said virtual hearings resulted in appearance rates equal to, and sometimes worse than, traditional in-person court procedures.)

The rapid adoption of new technologies could have other benefits. For example, judges from less-impacted courts could appear virtually to ease the load on places like Spokane County that have large backlogs and a need for more judges, as Gardner opined. Because ultimately, the post-COVID-19 courtroom will require flexibility from all corners of the legal world.

### ***Jury Trial Tips***

In preparation for jury trials to resume July 6, the Resumption of Jury Trials Workgroup has released [Guidance for resuming jury trials](#).

“Lawyers need to be ready to roll with the punches,” Gardner said, noting concerns of a second wave of coronavirus. “When those things occur, the court is going to react, and lawyers need to stay abreast of what court is doing.”

**About the Author**



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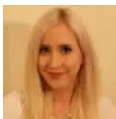
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