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The Honorable Arnie Roblan, Chair
The Honorable Paul Holvey, Chair
Joint Special Committee on Coronavirus Response

Sent by e-mail only

Dear Co-Chairs Roblan, Holvey, and Members of the Joint Special Committee on Coronavirus Response:

Thank you for the work you are doing to identify and respond to the immediate needs of Oregonians to address the Coronavirus pandemic. I appreciate the opportunity to present, in outline form, the pressing needs of our communities as they relate to judicial branch services.

The Need for Immediate Legislation

As you know, one of the keys to preventing the spread of this virus is to reduce in-person contacts, both in people's working and personal lives. To that end I have issued a Chief Justice Order (CJO 20-006) to restrict court operations to essential services. To the greatest extent possible, we have directed judges and staff to work at home instead of at courthouses, postponed most jury trials and in-person hearings to reduce the number of parties, lawyers, and jurors being summoned into courthouses. For the statutorily required proceedings that do require in-person hearings, we have ordered social-distancing measures.

There are some in-person proceedings that we have not been able to postpone because of statutorily imposed deadlines that courts currently do not have authority to extend or suspend. And there are some proceedings for which Oregon law currently requires in-person hearings. At this point, courts need more discretion to manage dockets in a way that recognizes people's constitutional rights as well as measures required to protect public safety and public health. We have worked with the Chairs and counsel for the Senate and House Judiciary Committees, the Department of Justice, and other stakeholders in the civil and criminal justice systems to present what we believe are necessary changes to current law. These proposals will allow us to appropriately meet legal imperatives while protecting the health and safety of people who must appear in court, and thereby the health and safety of Oregonians throughout our state.

The Proposed Solutions

I understand Senator Prozanski, Representative Sanchez, and Judiciary counsel will outline these proposals in more detail, but I offer my perspective on the legislative concepts we seek. Each of these concepts provides structured discretion to modify timelines and modify the mode of presentations in circumstances when the Governor has invoked her constitutional or statutory authority to declare a statewide emergency to address this pandemic.

Suspend or Extend Statutory Timelines in Criminal Cases. This proposal authorizes the Chief Justice to extend or suspend statutory timelines in criminal cases during a declared emergency for good cause. It would apply to timelines once a case has been filed in a circuit court, as well as the initiation of an appeal or petition for review in Oregon's appellate courts. The authority also contains two specific provisions: first, to extend the current 30-day timeline to hold a hearing when a person receives a criminal citation, and second, to allow hearings to be held telephonically or by other electronic means.

A grant of flexibility for these timelines and modes of appearance would allow the Chief Justice to further reduce the number of people in our courtrooms while ensuring that necessary trials and hearings are held.

Suspend or Extend Statutory Timelines in Non-Criminal (Civil) Cases. This second concept provides similar authority to extend or suspend statutory timelines and modes of appearance in non-criminal cases. The need for this legislation is equally pressing. Current law imposes timelines in civil cases where the Chief Justice does not have authority to extend or suspend required hearings and actions. For instance, current law imposes strict time limits or in-person appearances in landlord/ tenant cases, tax appeals, civil commitment hearings, and juvenile cases. This legislation would allow the Chief Justice to pause certain proceedings while permitting others to proceed, in some instances telephonically or by other remote means.

Supplemental Proposal to Extend Statutes of Limitations and Notices. As additional, supplemental proposals for this body to consider, we have provided draft language to the work group that would authorize – either by statute or authorization to the Governor – an extension of time to initiate non-criminal cases. These proposals would extend statutes of limitation in civil cases and time requirements to file tort claim notices. Whether to extend those time requirements and how best to do so are policy decisions that are important to address, but that we think that they are decisions that should be made in the legislative or executive branches. We offer our proposal to illustrate the present options that the judicial branch would not oppose.

A Solution to Facilitate Continued Delivery of Justice During This Pandemic

If the legislature wants to further reduce the number of people required to come to court during this pandemic, allow the justice system to continue to respond to the changing environment created by states of emergency, and still allow justice to be served, the simplest way to accomplish these goals is to temporarily delegate authority to make necessary changes to the judicial branch.

The proposed solution would link the requested authority to a Governor's declared emergency, relieve the legislature of having to make individual decisions on dozens of statutes during its limited special session, and would have a sunset clause. Finally, the authority would give the statewide elected official whose focus is centered on Oregon's system of justice the tools to ensure that justice can be done.

Thank you for taking up our concerns and proposals so quickly. If there is anything we can do to further expedite the process my staff and I stand ready to assist. We are available to answer questions or assist on other proposals. The collaboration that we have witnessed in these trying times is inspirational and we will continue to work toward the goals you set. Thank you.

Sincerely,

/s Martha L. Walters
Chief Justice