IN THE SUPREME COURT, STATE OF WYOMING

April Term, A.D. 2020

In the Matter of the	***)***
Wyoming Supreme Court's Temporary Plan	***)***
Regarding COVID-19 Pandemic	***)***

FIFTH ORDER AMENDING MARCH 18, 2020 TEMPORARY PLAN TO ADDRESS HEALTH RISKS POSED BY THE COVID-19 PANDEMIC

This matter came before the Court on its own motion. On March 18, 2020, in light of the nationwide pandemic, the Supreme Court entered its initial "Order Adopting Temporary Plan to Address Health Risks Posed by the Covid-19 Pandemic." That order implemented measures to protect the health and safety of court employees, elected officials, and the general public. Since then, in response to changing conditions and improving technology, this Court has entered four orders amending the March 18, 2020 Order, which can be found at https://www.courts.state.wy.us/coronavirus-covid-19-updates/. To eliminate the need for reference to prior orders, this order represents the entire current Temporary Plan. The Court hereby **ORDERS**:

1. No jury trials should be conducted until October 5, 2020, unless:
    a. A jury trial operating plan which generally conforms with the District Court Covid-19 Reopening Committee's Report and Guidance for Trial Courts dated July 22, 2020, has been adopted by the relevant judges (see link below), submitted to the county health officer without objection, and submitted to the Wyoming Supreme Court; and
    b. The presiding judge in his or her discretion has determined that the conditions of the courthouse and the current health of that community permit the safe conduct of the jury trial.
    c. Clerks of court and court personnel shall maintain the confidentiality of juror health information provided to the courts and limit access to that information to the presiding judge or other persons authorized to make decisions necessary to maintain the health of jurors, court personnel, and the public.

2. All other in-person proceedings in all Circuit and District Courts and the Supreme Court in Wyoming should be suspended from the close of business on March 18, 2020 to October 5, 2020, except those set forth below:
    a. Proceedings necessary to protect constitutional rights of criminal defendants, including bond-related matters for incarcerated individuals;
    b. Civil and criminal jury trials that are in progress as of March 18, 2020;
    c. Proceedings related to relief from abuse, including but not limited to orders of protection;
    d. Proceedings related to emergency child custody orders;

e. Proceedings related to emergency child protection;
f. Proceedings related to petitions for temporary injunctive relief;
g. Proceedings related to emergency protection of elderly or vulnerable persons;
h. Proceedings directly related to the COVID-19 public health emergency;
i. Proceedings pursuant to a COVID-19 Operating Plan adopted by the judges of the relevant courthouse and submitted to the Wyoming Supreme Court in accordance with the Court Covid-19 Reopening Guidelines for Court Employees and Public Proceedings: http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guidelines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf; and
j. Other exceptions as approved by the Chief Justice or deemed necessary by a district or circuit judge.

3. Judges are encouraged to use telephonic or video technology for all other statutorily and/or constitutionally required hearings, including arraignments and Title 25 hearings.
   a. Felony sentencings W.R.Cr.P. 43.1(b)(4), and evidentiary felony revocation hearings W.R.Cr.P. 43.1(b)(5) may be conducted via video conferencing, with the defendant's consent in writing or on the record.
   b. Misdemeanor bench trials may be conducted via video conferencing pursuant to the terms of W.R.Cr.P. 43.1(a), (c) and (d), with the defendant's consent in writing or on the record.
   c. Where W.R.Cr.P. 43.1 or this order permit a criminal proceeding to be conducted by video conferencing, the proceeding may be conducted by audio only, where the available technology is such that only audio is available. Such audio proceedings may be conducted at the discretion of the presiding judge and consistent with due process.

4. Good cause exists due to the current health emergency to continue any proceeding not specified in paragraphs 1 or 2 of this order while it is in effect.

5. All civil trials, hearings, and motions should be postponed and rescheduled for a later date unless the assigned judge finds the proceedings can be held through telephonic or video means and an adequate record can be made by a court reporter or electronic recording, or pursuant to a COVID-19 Operating Plan adopted by the judges of the relevant courthouse and submitted to the Wyoming Supreme Court in accordance with the Court Covid-19 Reopening Guidelines for Court Employees and Public Proceedings. http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guidelines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf

6. Reasonable attempts should be made to reschedule criminal trials, subject to the requirement that defendants be provided speedy trials as required by law, unless the judge determines that trial can be held pursuant to paragraph 1 above.

7. In those instances in which an in-person proceeding under paragraphs 1 and 2 of this order is held, courtroom attendance should be limited to attorneys, parties, necessary witnesses,

victims, and essential court personnel, or pursuant to a COVID-19 Operating Plan adopted by the judges of the relevant courthouse and submitted to the Wyoming Supreme Court in accordance with the Court Covid-19 Reopening Guidelines for Court Employees and Public Proceedings. http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guidelines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf

8. Any in-person proceeding involving a participant who is ill or in a high-risk category as defined in paragraph 12 of this order should be rescheduled. In-custody defendants who are symptomatic of coronavirus should not be transported to court facilities.

9. When evaluating whether the due administration of justice requires any statutory or constitutional proceeding to occur within a certain time frame, courts should consider whether conducting the proceedings will require the parties, their attorneys, essential court personnel, or members of the public to act in a manner inconsistent with current recommendations from local, State, and Federal public health officials.

10. Unless public safety compels otherwise, judges should issue summonses instead of bench warrants.

11. Clerks of court are urged to consider using drop boxes for conventionally filed documents if possible.

12. Signage should be posted at all public entry points advising individuals not to enter courtrooms or clerks' offices if they have:
    a. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC in the previous 14 days;
    b. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
    c. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
    d. Been asked to self-quarantine by any doctor, hospital, or health agency;
    e. Been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19; or
    f. A fever, cough or shortness of breath.

13. Individuals attempting to enter restricted areas in violation of this order should be denied entrance by courthouse security officers or other authorized individuals.

14. Court employees should discourage all persons from congregating outside courtroom doors and should encourage social distancing inside the courtroom or in other court areas.

15. Individuals with legitimate court business who are ill, caring for someone who is ill or in a high-risk category as defined in paragraph 12 of this order are advised to stay home and to request a continuance by calling the appropriate clerk of court. Court clerks are urged

to appoint sufficient staff to process these requests and notify the presiding judge and involved attorneys.

16. Litigants and attorneys in both criminal and civil cases are encouraged to file documents with clerks of court by electronic mail if possible, in accordance with Rule 5(e) of the Wyoming Rules of Civil Procedure and Rule 301 of the Uniform Rules for the District Courts. Rule 5(e) is hereby expanded to allow filing of documents which exceed ten (10) pages in length by electronic mail. Rule 4 of the Rules for Fees and Costs of the District Court and Rule 4 of the Rules for Fees and Costs of the Circuit Court are hereby waived during the effective period of this order.

17. Except as set forth in paragraph 16 of this Order, the collection of fees (including filing fees) may be delayed, but filing fees should not be waived.

18. Judges are strongly encouraged to communicate with their local County Commissioners to ensure that courthouses remain open to court staff as necessary for statutorily or constitutionally required court business.

19. Circuit and district judges are strongly encouraged to coordinate with their conferences to ensure that statutorily and/or constitutionally required court business can continue in each county if a judge falls ill and is otherwise unable to perform his or her duties.

20. The Wyoming Supreme Court hereby suspends any court rule that is contrary to or in conflict with this order for the time period during which the order is in effect.

This order does not prohibit any court proceeding which may be conducted by telephone, video, teleconferencing, or other means that do not involve in-person contact. It is not intended to affect courts' consideration of matters that can be resolved without in-person proceedings.

Orders of protection and temporary injunctions that would otherwise expire between March 18, 2020 and May 31, 2020, are hereby extended until October 5, 2020.

The Court will review this Order no later than September 15, 2020 to determine whether it should be extended or vacated as circumstances require. Nothing in this order is intended to preclude judges from implementing additional restrictions as needed. This order shall be in effect to October 5, 2020, unless modified by further order of this Court.

DATED this 24th day of July, 2020.

BY THE COURT:

/s/

MICHAEL K. DAVIS
Chief Justice