Order

Michigan Supreme Court
Lansing, Michigan

March 18, 2020

ADM File No. 2020-08

Administrative Order No. 2020-2

Order Limiting Activities/
Assemblages in Court Facilities

Bridget M. McCormack,
Chief Justice

David F. Viviano,
Chief Justice Pro Tem

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

To confront this unprecedented public health crisis, Michigan trial courts must ensure that court facilities are taking every measure possible to protect the public and court personnel. In EO 2020-11, Governor Whitmer ordered restrictions on assemblages to no more than 50 people. President Trump has issued guidelines urging the public to avoid assemblages of more than 10 people and practice social distancing.

Pursuant to 1963 Const, Art VI, §4, which provides for the Supreme Court's general superintending control over all state courts, **trial courts are ordered to limit access to courtrooms and other spaces to no more than 10 persons, including staff, and to practice social distancing and limit court activity to only essential functions,** which include the following:

I. **CIRCUIT COURTS**

A. **Criminal Proceedings**

1. To the extent possible and consistent with MCR 6.006 and a defendant's constitutional and statutory rights, courts should conduct the following hearings remotely using two-way interactive video technology or other remote participation tools:

   a. For in-custody criminal defendants, pleas, sentencings, arraignments on the information under MCR 6.113 (unless waived), probation violation arraignments under MCR 6.445(B), and emergency motions regarding bond. If the defendant is not in custody, these matters should be adjourned.

   b. Processing of criminal extradition matters for in-custody defendants pursuant to MCL 780.9. The issue of bail should be addressed for those eligible defendants as provided in MCL 780.14.

2. All other criminal matters, including all non-emergency matters where the defendant is not in custody, shall be adjourned. All criminal jury trials shall be adjourned until after April 3, 2020.

3. With regard to matters involving forensic evaluations of juveniles or adults for competence to stand trial, competence to waive Miranda rights, and criminal responsibility, courts shall permit the use of video technology. The evaluator shall note in the forensic opinion whether the use of video technology impeded an impartial and accurate clinical assessment, and, if so, notify the court that an in-person evaluation must be scheduled.

B. **General Civil and Business Court Cases**

1. Infectious disease (ID) proceedings under MCL 333.5201 *et seq*.

2. Limited proceedings regarding personal protection orders (PPOs):

   a. Review and determination of requests for personal protection orders (PPO) under MCL 600.2950 and 600.2950a;

   b. Review and determination of emergency request to extend a PPO pursuant to MCR 3.707(B);

   c. Initial hearing for in-custody respondent arrested for alleged violation of PPO to allow court to address issue of bond under MCL 764.15b.

3. All other civil and business court matters, including trials, must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

C. **Family Court Matters**

1. Review and determine requests for ex parte relief in domestic relations proceedings necessary for the safety and well-being of a litigant and/or children under MCR 3.207.

2. Safe delivery of newborn child (NB) proceedings under MCL 712.1 *et seq*.

3. Waiver for parental consent (PW) proceedings under the Parental Rights Restoration Act, MCL 722.901, *et seq*.

4. Juvenile delinquency proceedings:

    a. hearings required within 24 hours of a juvenile's apprehension or detention pursuant to MCR 3.935 and MCR 3.944

    b. arraignments for in-custody designated and adult court waiver proceedings pursuant to MCR 3.951 (designated) and MCR 3.950 (waiver, circuit court arraignment).

5. Child protective proceedings:

    a. hearings required within 24 hours of taking a child into protective custody pursuant to MCR 3.965 and MCR 3.974;

    b. permanency planning hearings that are required pursuant to MCL 712A.19a.

6. Friend of the court arraignments on bench warrants pursuant to MCR 3.221(B). An arrested individual must be promptly arraigned if the underlying contempt hearing cannot be held within 48 hours. In addition, Friend of the Court offices should set priorities to continue the following services:

    a. Courts should continue to make staff available to record child support orders in MiCSES as long as there are unrecorded orders so the SDU can send out child support payments.

    b. To the extent it is safely possible, courts should continue to make staff available to implement income withholding notices so payments can be deducted and paid automatically. To the extent it is not safely possible to make staff available for this purpose, most

income withholding notices should be issued automatically when there is a New Hire Directory match.

c. To the extent it is safely possible, courts should continue to make staff available to implement national medical support notices to allow health care coverage to be implemented as quickly as possible.

7. All other family court matters, including trials, must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

D. Other emergency motions in the discretion of the court.

II. DISTRICT COURTS

A. **Criminal Matters** – To the extent possible and consistent with MCR 6.006 and a defendant's constitutional and statutory rights, courts should conduct the following hearings remotely using two-way interactive video technology or other remote participation tools:

1. For in-custody criminal defendants, pleas, sentencings, arraignments under MCR 6.104, bond motions under MCR 6.106 or MCR 6.108, probable cause conferences under MCR 6.108 , and preliminary examinations under MCR 6.110.

2. Processing of criminal extradition matters for in-custody defendants pursuant to MCL 780.9. The issue of bail should be addressed for those eligible defendants as provided in MCL 780.14.

3. With regard to matters involving forensic evaluations of juveniles or adults for competence to stand trial, competence to waive Miranda rights, and criminal responsibility, courts shall permit the use of video technology. The evaluator shall note in the forensic opinion whether the use of video technology impeded an impartial and accurate clinical assessment, and, if so, notify the court that an in-person evaluation must be scheduled.

4. Review and determination of requests for search warrants should continue pursuant to MCL 780.651.

5. Review and issuance of arrest warrants pursuant to MCL 764.1a for crimes that present a danger to public safety.

6. All other criminal matters, including all non-emergency matters where the defendant is not in custody, shall be adjourned. All criminal jury trials shall be adjourned until after April 3, 2020.

B. **Civil Matters** – All matters must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

C. **Traffic Matters** – All civil infractions, including trials, must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020. No bench warrants shall be issued for individuals failing to appear during the state of emergency.

D. Other emergency motions in the discretion of the court.

III. **PROBATE COURTS**

A. Proceedings regarding involuntary mental health treatment under Chapter 4 of the Mental Health Code, including the following:

1. Pick-up / transportation orders pursuant to MCL 330.1436 and 330.1426;

2. Petitions for initial or continuing involuntary hospitalization pursuant to MCL 330.1472a.

B. Petitions for immediate funeral / burial arrangements pursuant to MCL 700.3206 and 700.3614.

C. Emergency petitions filed by Adult Protective Services under MCL 400.11b(6).

D. Emergency petitions for guardianship pursuant to MCL 700.5312.

E. Emergency conservatorships and other protective orders pursuant to MCL 700.5407 in those cases with immediate pending evictions/foreclosures/shut off notices.

F. Estates where immediate access to residence is necessary under MCL 700.5407.

G. Ex-parte requests for temporary restraining orders.

H. With regard to proceedings involving mental health and guardianship matters, courts shall permit the use of video technology unless a health and safety issue requires an in-person appearance.

I. All other probate court matters must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

J. Other emergency motions in the discretion of the court.

Further, the court must work with the county clerk to ensure that if in-person filing of court pleadings is limited due to the state of emergency, court pleadings will continue to be accepted for filing by other means, such as U.S. mail, e-Filing, email, or facsimile.

Further, with regard to all courts, all matters that are resolved by agreement of the parties and with approval of the court that do not involve any appearance at the court may proceed during the pendency of this order. Such agreement may be documented using technology as authorized in AO No. 2020-1, dated March 15, 2020. This authority does not extend to any matters suspended by executive action of the Governor.

This order shall remain in effect until the close of business Friday, April 3, 2020, or as provided by subsequent order.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 18, 2020

Clerk