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Clerk of the
Appellate Courts

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: COVID-19 PANDEMIC**

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**No. ADM2020-00428**

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**ORDER CONTINUING SUSPENSION OF IN-PERSON COURT PROCEEDINGS AND EXTENSION OF DEADLINES**

On March 13, 2020, in response to the COVID-19 pandemic, the Chief Justice of the Tennessee Supreme Court declared a state of emergency for the Judicial Branch of Tennessee government and activated a Continuity of Operations Plan for the courts of Tennessee. See Tenn. Const. Art. VI, § 1; Tenn. Code Ann. §§ 16-3-501 to 16-3-504 (2009); Moore-Pennoyer v. State, 515 S.W.3d 271, 276-77 (Tenn. 2017); Tenn. Sup. Ct. R. 49. This state of emergency constitutes a "disaster" for purposes of Tenn. Sup. Ct. R. 49 and Tenn. Code Ann. § 28-1-116. In light of ongoing concerns, the Tennessee Supreme Court hereby continues the suspension of in-person court proceedings and the extension of deadlines as set forth in this order. We again emphasize that the local and state courts of the State of Tennessee are open and will remain open under all circumstances, subject to the provisions of this order.

Under the constitutional, statutory, and inherent authority of the Tennessee Supreme Court, we adopt the following provisions. All in-person proceedings in all state and local courts in Tennessee, including but not limited to municipal, juvenile, general sessions, trial, and appellate courts, shall be suspended from the close of business on Friday, March 13, 2020, through Thursday, April 30, 2020, subject to the exceptions below.

Exceptions to this suspension of in-person court proceedings include, but are not limited to:

- Proceedings necessary to protect constitutional rights of criminal defendants, including bond-related matters, preliminary hearings for incarcerated individuals, and plea agreements for incarcerated individuals
- Proceedings related to relief from abuse, including but not limited to orders of protection
- Proceedings related to statutory order of protection hearings after entry of an ex parte order as necessary to satisfy any due process concerns

- Proceedings related to emergency child custody or visitation orders
- Proceedings related to the voluntary surrender of parental rights
- Settlements involving a minor or a person with a disability
- Department of Children's Services emergency matters related to child safety, placement, permanency, or federal funding for children in foster care
- Proceedings related to petitions for temporary injunctive relief
- Proceedings related to emergency mental health orders
- Proceedings related to emergency protection of elderly or vulnerable persons
- Proceedings directly related to the COVID-19 public health emergency
- Other exceptions as approved by the Chief Justice

The presiding judge or the designee of the presiding judge of each judicial district is authorized to determine the manner in which in-person court proceedings for the exceptions listed above are to be conducted. Other exceptions to the suspension of in-person court proceedings must be approved by the Chief Justice. Any permitted in-court proceedings shall be limited to attorneys, parties, witnesses, security officers, and other necessary persons, as determined by the trial judge. Judges and their staff shall ensure that social distancing and other such measures are strictly observed. For purposes of implementing procedural matters during this time, the provisions of Rule 18(c) of the Rules of the Tennessee Supreme Court are suspended to allow judges to issue general orders.

Judges are charged with the responsibility of ensuring that core constitutional functions and rights are protected. Additionally, court clerks are charged with ensuring that court functions continue. See Tenn. Code Ann. §§ 18-1-101 (2009); 18-1-105 (Supp. 2019). Nevertheless, all judges and court clerks should minimize in-person contact by utilizing available technologies, including alternative means of filing, teleconferencing, email, and video conferencing.

Any Tennessee state or local rule, criminal or civil, that impedes a judge's or court clerk's ability to utilize available technologies to limit in-person contact is suspended through Thursday, April 30, 2020. See, e.g., Tenn. R. Civ. P. 43.01. With respect to plea agreements for non-incarcerated individuals, this suspension expressly applies to those provisions of Tenn. R. Crim. P. 11 which otherwise would require the proceeding to be in person in open court. See, e.g., Tenn. R. Crim. P. 11(b)(1) and (2), 11(c)(2)(A).

The presiding judge or the designee of the presiding judge of each judicial district shall develop a written plan to affirmatively address issues regarding the incarceration of nonviolent offenders in furtherance of efforts to reduce the jail population, including but not limited to bond reductions or eliminations, deferred sentences, and suspended sentences. The presiding judge or the designee of the presiding judge of each judicial district shall submit its plan to the Administrative Office of the Courts by the close of

business on Monday, March 30, 2020, absent an extension granted by the Chief Justice.

Judges' offices and court clerks' offices may limit in-person contact with the public during the period of suspension, but must remain functional. If it becomes necessary to close judges' or court clerks' physical offices during the period of suspension, these offices shall remain accessible by telephone, email and fax to the extent possible during regular business hours. If available, drop boxes should be used for conventionally filed documents.

This order expressly encourages and does not prohibit court proceedings by telephone, video, teleconferencing, email, or other means that do not involve in-person contact. This order does not affect courts' consideration of matters that can be resolved without in-person proceedings. Although some non-emergency matters will need to be rescheduled, judges are to continue to resolve matters that do not require in-person court proceedings. Court clerks are to work cooperatively and at the direction of the presiding judge of each judicial district to fulfill the clerks' obligation to facilitate continuing court function.

Deadlines set forth in court rules, statutes, ordinances, administrative rules, or otherwise that are set to expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are hereby extended through Wednesday, May 6, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are hereby extended through Wednesday, May 6, 2020. See Tenn. Code Ann. § 28-1-116 (2017). Deadlines, statutes of limitations, and statutes of repose that are not set to expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are not extended or tolled by this order.

With regard to notarizing documents at this time, attorneys and judges are encouraged to utilize the "Online Notary Public Act," Tenn. Code Ann. § 8-16-301, et seq., and the regulations promulgated by the Secretary of State at Sec. of State, Tenn. R. and Reg. 1360-07-03-.01. Additionally, with regard to court filings, declarations under penalty of perjury may be used as an alternative to a notary.

Given the increasing economic issues caused by this pandemic, no judge, clerk, or other court official shall take any action to effectuate an eviction, ejectment, or other displacement from a residence during the effective dates of this order based upon the failure to make a rent, loan, or other similar payment absent extraordinary circumstances as determined by a judge in a court of competent jurisdiction. Nothing in this order affects the obligations, terms, or conditions for payment under existing contracts. Judges also are encouraged to work with court clerks and local law enforcement to develop policies severely limiting or eliminating any new garnishments during this time.

Orders of protection and temporary injunctions that would otherwise expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are hereby extended through Wednesday, May 6, 2020.

This order applies statewide to all courts and court clerks' offices except administrative courts within the Executive Branch and federal courts and federal court clerks' offices located in Tennessee.

Under the terms of this order, the courts of Tennessee remain open, consistent with the Judicial Branch's obligation to mitigate the risks associated with COVID-19. Judges should work with local law enforcement and other county officials to ensure that, to the extent possible, courthouses remain accessible to carry out essential constitutional functions and time-sensitive proceedings.

This order is intended to be interpreted broadly for protection of the public from risks associated with COVID-19.

It is so ORDERED.

FOR THE COURT:

Jeffrey S. Bivins, Chief Justice

Cornelia A. Clark, Justice

Sharon G. Lee, Justice

Holly Kirby, Justice

Roger A. Page, Justice