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DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order

2020-PR-048

Order Relating to District Court Operations in Counties Not Affected by a Stay-at-Home Order or Subject to a Directive Closing a County Courthouse or Other Judicial Office

On March 12, 2020, Governor Laura Kelly issued a State of Disaster Emergency Declaration in response to confirmed cases of novel Coronavirus (COVID-19) in the state of Kansas, finding that a public health emergency existed. The Legislature ratified and continued the period of disaster emergency through May 1, 2020, in House Concurrent Resolution No. 5025. On April 30, 2020, the Governor issued a new State of Disaster Emergency Declaration, finding the public health emergency continued.

Soon after the March 12, 2020, emergency declaration, the Governor issued a statewide stay-at-home order, Executive Order No. 20-16, which she later extended through Executive Order No. 20-24. That order expires at 11:59 p.m., May 3, 2020.

Beginning with the filing of Administrative Order 2020-PR-016 on March 18, 2020, Kansas courts have restricted functions or methods of operation in order to secure the health and safety of court users, staff, and judicial officers. Initially, operations were restricted to essential functions. Since April 3, 2020, under Administrative Order 2020-PR-032, Kansas courts have conducted essential functions and any other function that could be performed without an in-person hearing. These orders have balanced the need to perform judicial functions with the safety of those who use and are employed by the Kansas judicial system.

On April 30, 2020, the Governor issued Executive Order No. 20-29. That order, effective May 4, 2020, lifts some restrictions, including the statewide stay-at-home orders in EO 20-16 and EO 20-24, but it continues social distancing and other limits to protect the health and safety of Kansans. Local officials can impose, and some have announced, more restrictive orders in light of local public health conditions. Some county commissions have announced plans to keep public buildings, including courthouses, closed to the public. Given the potential for varying public health conditions and orders, the steps that are necessary to protect the safety of court users, staff, and judicial officers may vary county to county and, as a result, court functions and operations may vary court to court.

To account for the potential of differing public health orders, the Kansas Supreme Court is issuing two orders today that address courthouse operations. The two orders issued by the Court vary, depending on whether a local court is subject to public health orders that are more restrictive than EO 20-29. Additionally, the Chief Justice is issuing

three orders today under the authority granted her in 2020 House Substitute for Senate Bill 102: Administrative Orders 2020-PR-045 (authorizing use of two-way audio-visual communications in any court proceeding); 2020-PR-046 (suspending deadlines and time limitations under K.S.A. 2019 Supp. 22-3402); and 2020-PR-047 (suspending deadlines and time limitation in judicial proceedings). These three orders uniformly apply to all Kansas courts.

This order applies only to those courts or to those court operations located in the following:

- A county that is *not* subject to a stay-at-home order;
- A county in which *no* municipality is subject to a stay-at-home order; or
- A courthouse or a court office that is *not* closed to the public for public health reasons.

All other courts are subject to Administrative Order 2020-PR-049.

If public health conditions change in a county operating under this order (2020-PR-048) so that one or more of the three bulleted conditions above no longer apply, the court must adjust its functions to comply with Administrative Order 2020-PR-049 instead.

For any court or court operation subject to this order (2020-PR-048), the court orders the following:

1. Public access to court offices in a manner consistent with this order and the parameters established by the chief judge of the judicial district must be allowed as soon as practicable after any stay-at-home order ends or a directive closing a courthouse or court office is lifted. The following details what is required for safely reopening courtrooms and court offices to the physical presence of the public and to additional staff. Until the court can safely resume public operations, the court must abide by 2020-PR-049 and should only return staff to the courthouse when conditions meet the requirements of this order.

    - The chief judge has consulted with the head of the local public health department or his or her designee to determine how to phase in a return to in-person hearings given the local risk and the courthouse facility.
    - The chief judge has assured compliance with any engineering or other suggestions made by the public health official as to all work and courtroom spaces.

- A plan has been developed with the local health official for appropriate screening of those entering any courtroom or court office.

- The chief judge has determined how to comply with all requirements for assuring personal protective equipment is available for all court or courthouse staff and court participants. This would include, but not be limited to, masks, gloves, and cleaning supplies that will allow sanitizing work or courtroom surfaces between contacts with more than one individual—i.e., different individuals sitting at counsel table or touching courtroom surfaces such as doors or lecterns.

- The chief judge, other judges, and other court personnel have triaged the court docket, weighing health risks versus the need for a hearing and determining whether in-person hearings are necessary. Any hearing should be conducted by remote means, if possible. In assessing these factors, decision makers need to remember that a judicial order to appear in person necessarily exposes the individual to whom it is directed and others to an increased health risk. No hearing or docket may be conducted if it requires more than 10 people in a courtroom, and each of those 10 people must be able to remain at least 6 feet apart throughout, with cleaning between groups of individuals in the courtroom.

- All orders to appear for a hearing have been modified to include, or be accompanied by, information on restrictions in paragraph 3 below and stating that those who have conditions placing them at high risk if exposed to COVID-19, should not appear but should contact the court through a phone number or email address provided.

2. All courtrooms and court offices must comply with:

- Governor Laura Kelly's Executive Order 20-29 and any other applicable gubernatorial executive orders;

- any applicable order or guidance from local public health officials;

- all guidelines available at https://covid.ks.gov/ad-astra-a-plan-to-reopen-kansas;

- any applicable guidelines of the Occupational Health and Safety Administration;

- all COVID-19 Safety Directives of the Office of Judicial Administration; and

- the guidelines from the Kansas Department of Health and Environment.

3. Anyone entering a courthouse or other court office must be denied access as follows:

    - if the person has been in close contact with someone who has been diagnosed with, or is suspected to have had, COVID-19 within the last 14 days;

    - if the person is experiencing two or more of the COVID-19 symptoms identified by the Centers for Disease Control and Prevention; or

    - if the person has traveled to an area subject to COVID-19 travel restrictions imposed by the Kansas Department of Health and Environment within the previous 14 days.

4. Each chief judge must assure the requirements in paragraph 3 are posted at all entrances to the courthouse or any court office within the judicial district. COVID-19 Safety Directives must also be posted in employee work areas and distributed to all employees. The directive and posters will be available on the Kansas judicial branch intranet.

5. The chief judge may authorize security personnel or staff members to request a judicial officer or employee to voluntarily take a temporal temperature or allow a thermal scan for fever. Any person who refuses to have his or her temperature taken or who has a temperature of 100.4 F or higher will not be allowed access to court offices or courtrooms.

6. Any member of the public who is not granted access to a courtroom or court office must be provided a phone number or email address where the individual may seek assistance in rescheduling or otherwise completing his or her court business.

7. Any employee who is not granted access to his or her workplace must contact his or her appointing authority through electronic communication as soon as possible, and he or she will be placed on the leave appropriate for the circumstances.

8. If any judicial branch employee exhibits two or more COVID-19 symptoms in the workplace, an appointing authority, after consultation with the director of personnel at the Office of Judicial Administration, or her designee, will direct the employee to leave the office.

9. Steps must be taken to ensure members of the public exercise appropriate social distancing in any court office, courtroom, or other portion of any facility under court control. These steps may include requiring appointments and must include marking 6-foot distances in any area where people are likely to congregate. Any public area that cannot be adapted for appropriate social distancing must be closed.

10. Staffing in a courthouse and any court office should be limited to only the following employees:

    - those who are necessary to serve members of the public or whose physical presence in the courthouse or court office is necessary for the performance of the employee's duties; and

    - those who can be accommodated with appropriate social distancing.

11. To the extent possible, telework should be used to enable full productivity while operating with fewer staff in the courthouse or court office. A chief judge of a district court may authorize employees to telework. Any person authorized to telework must complete a teleworking notice and agreement provided by the Office of Judicial Administration, unless one has already been completed.

12. An appointing authority should contact the director of personnel at the Office of Judicial Administration, or her designee, if any employee expresses concern about working conditions or about health risks in the workplace.

13. To the extent possible, work schedules should be arranged to minimize the number of employees affected if workplace exposure occurs. Thorough cleaning should occur between any rotations of personnel.

Dated this 1st day of May 2020. This order is effective upon filing.

FOR THE COURT

Marla Luckert

MARLA LUCKERT
Chief Justice