STATE OF NEW HAMPSHIRE

SUPREME COURT OF NEW HAMPSHIRE

R E V I S E D – EFFECTIVE JULY 7, 2020

FIFTH RENEWED AND AMENDED ORDER SUSPENDING IN-PERSON COURT PROCEEDINGS RELATED TO NEW HAMPSHIRE CIRCUIT COURT AND RESTRICTING PUBLIC ACCESS TO COURTHOUSES

Pursuant to its constitutional and statutory authority and powers of general superintendence over the New Hampshire court system, and conditioned upon Governor Sununu renewing his State of Emergency Declaration under RSA 4:45, the New Hampshire Supreme Court, with the concurrence of Governor Sununu regarding statutory deadlines, makes the following orders relative to **New Hampshire Circuit Courts** to respond to the ongoing COVID-19 pandemic.

1. As of July 7, 2020, and through July 27, 2020 and/or the last day of a Declared State of Emergency, the New Hampshire circuit courts will remain open on a restricted basis, consistent with the Judicial Branch's obligation to mitigate the risks associated with COVID-19.

- The courthouses will be open **only** to individuals filing for emergency relief, or who are scheduled for in-person proceedings, or who are a party in a landlord/tenant case pursuant to RSA 540 or RSA 540-A and must file required documents or make rental payments.
- Otherwise, the court will not be open to the general public.
- Through July 27, 2020, and/or the last day of a Declared State of Emergency, members of the public will not have access to view files or make copies at the courthouses. To learn more about requesting copies of documents, please see the NHJB website COVID page.
- If you have questions about whether you should go to a courthouse, please call 855-212-1234.

2. The June 11, 2020 Fourth Renewed and Amended Order Suspending In-Person Court Proceedings Related to New Hampshire Circuit Court and

Restricting Public Access to Courthouses remains in effect until 8:00 a.m. on July 7, 2020.

3. Subject to the exceptions in paragraphs 4 and 7 below, all in-person proceedings in the circuit courts will remain suspended from July 7, 2020, through July 27, 2020 and/or the last day of a Declared State of Emergency.

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

a. Proceedings necessary to protect constitutional rights of criminal defendants, including bail-related matters, trials, and plea agreements for incarcerated individuals.
b. Requests for orders of protection for domestic violence under RSA 173-B, stalking under RSA 633:3-a and juvenile abuse under RSA 169-C:7-a, and hearings on such orders.
c. Requests for child-related emergency orders in divorce/parenting cases under RSA 461-A and hearings on any emergency relief ordered.
d. Temporary hearings in divorce/parenting cases.
e. Hearings on the establishment or modification of child support whether financial, medical, or both.
f. Division for Children, Youth and Families' requests for emergency orders and hearings on such orders, as well as other hearings in RSA 169-C cases if children are in out-of-home placement.
g. Requests for detention or placement of a juvenile under RSA 169-B and all hearings in RSA 169-B cases for juveniles who are detained or in an out-of-home placement.
h. Requests for placement of a juvenile under RSA 169-D and all hearings in RSA 169-D cases in which the juvenile is in an out-of-home placement.
i. Proceedings related to petitions for temporary emergency injunctive relief.
j. Proceedings related to emergency mental health orders, including Involuntary Emergency Admission and Involuntary Admission (probate commitment) proceedings under RSA 135-C.
k. Petitions for guardianship of minors under RSA 463 or guardianship over incapacitated persons under RSA 464-A, and hearings on such orders.

l. Landlord/Tenant proceedings under RSA 540 and 540-A.
m. Proceedings directly related to the COVID-19 public health emergency.
n. Other exceptions as approved by the Senior Associate Justice of the Supreme Court.

5. The following additional provisions are applicable to proceedings under RSA 540:

- In all cases in which a deadline was extended pursuant to any earlier emergency order, the period for calculating deadlines began on July 1, 2020, regardless of whether any portion of the time for complying with a deadline had elapsed prior to the deadline being extended by Supreme Court orders.
- Any tenant who elected to file an appeal and was required to pay rent into the court pursuant to RSA 540:25 prior to March 16, 2020, shall, by no later than 4:00 p.m. on July 8, 2020, pay into the court the total amount of rent that would have been due since the tenant's last payment prior to March 16, 2020. Thereafter, the tenant shall pay rent as required by RSA 540:25 as if the tenant's notice of appeal was filed on the date of the tenant's first rent payment on or after July 1, 2020. Failure to pay the total amount of rent due pending appeal shall result in the court issuing a default to the tenant and a writ of possession to the landlord.
- However, any tenant who has paid to the landlord any portion of the rent which was payable to the court between March 16, 2020 and July 1, 2020, may file an affidavit with the court by 4:00 p.m. on July 8, 2020, with a copy sent to the landlord, stating the amount of the payments. The court shall credit any rent paid to the landlord against the amount of rent required to be paid into the court. The tenant shall pay any remaining balance due by July 8, 2020, and shall make all future payments to the court. In the event the landlord disputes the amount or nature of the tenant's payments to the landlord, the landlord shall file an objection to the tenant's affidavit within 10 days of its filing and the court shall hold a hearing to determine the nature and amount of the tenant's payments to the landlord. If the court determines that the tenant's claimed payments should not be credited against the balance due as of July 8, 2020, the tenant shall be required to pay any remaining balance due as of July 8, 2020, by a date determined by the court or face dismissal of the tenant's appeal.

- To ensure compliance with the federal Coronavirus Aid, Relief and Economic Security (CARES) Act, Public Law 116-136, all landlords in eviction actions based on non-payment of rent filed on or after March 27, 2020, must file an affidavit, on a form approved by the circuit court, documenting their compliance with, or exemption from, CARES Act Sections 4023 and 4024. In cases filed on or between March 27, 2020, and June 30, 2020, the affidavit must be filed with the court and served upon the tenant prior to a hearing being scheduled on the case or, if the tenant defaults, prior to the issuance of a writ of possession. No hearing will be scheduled nor any writ of possession issued unless the landlord files the affidavit. In cases filed on or after July 1, 2020, the affidavit must be filed with the court prior to entry of a landlord and tenant writ and served upon the tenant with the writ. No writ will be entered or docketed unless the landlord files the affidavit.

6. To comply with the ongoing recommendations to mitigate the risks of COVID-19, the court will conduct many of the above-referenced cases telephonically or by video, to the extent possible. However, for trials in criminal matters referenced in paragraph 4(a) or adjudicatory hearings in Delinquency/CHINS matters referenced in paragraph 4(g) and (h), in-person hearings shall be scheduled and transport orders issued as necessary, unless the defendant/juvenile waives in-person participation. The court will notify parties if their hearing will be conducted telephonically and/or by video.

7. In addition to the exceptions in paragraph 4 above, the circuit court may conduct in-person, telephonic or video hearings in other cases, as determined by the Administrative Judges of the circuit court, in consultation with the trial judges or their designees.

8. For any of the above hearings, please continue to mail any filings as you normally would. In the exceptional circumstance that you cannot print and mail your filings, you may submit documents by email to the COVID-19 email address provided on your hearing notice, or obtained through the Information Center. If you must submit documents by email, include your name and case number in the subject line.

9. Any filing/exhibit submitted by email must also be sent to the court via U.S. mail, to be docketed as part of the official court record.

10. Emailed filings should only occur in cases that are scheduled for hearings pursuant to this order. Any submission unrelated to such hearings will not be accepted by email.

11. Notwithstanding Rule 11(a)(4) of the Rules of Criminal Procedure, the circuit court may take a plea from a defendant without a signed Acknowledgement and Waiver of Rights Form by reviewing the defendant's rights on the record and obtaining the defendant's oral waiver.

12. All courts will accept electronic signatures on pleadings and will allow litigants' signatures to be electronically signed by attorneys and/or bail commissioners with a statement that they have communicated with the litigant who has authorized them to do so.

13. The Administrative Judges of the circuit court may determine, based upon staffing levels or other factors, that hearings in individual cases subject to the exceptions indicated above be conducted at court locations other than those at which they would normally occur or be conducted by video or by telephone. Any statutory restrictions on venue are hereby suspended for the duration of this order.

14. Any permitted in-court proceedings shall be limited to attorneys, parties, witnesses, security officers, and other necessary persons, as determined by the trial judge.

15. Judges are charged with the responsibility of ensuring that core constitutional functions and rights are protected. Additionally, clerks of court are charged with ensuring that core constitutional and safety-related court functions continue. Nevertheless, all judges and court clerks are urged to limit in-person courtroom contact as much as possible by utilizing available technologies, including alternative means of filing, teleconferencing, email, and video conferencing. Any court 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 for the duration of this order.

16. This order encourages 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.

17. All deadlines set forth in court rules, court orders, statutes, ordinances, administrative rules, administrative orders or otherwise are no longer extended and are in effect, except that the deadlines for scheduling of hearings may be extended as the needs of the trial court require.

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

19. Unless renewed or explicitly revoked beforehand, this order shall remain in effect through July 27, 2020 and/or the last day of a Declared State of Emergency.

Issued: July 2, 2020

ATTEST: Timothy A. Gudas

Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire