THE SUPREME COURT OF MONTANA

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MONTANA SUPREME COURT

FOR IMMEDIATE RELEASE

Date: April 27, 2020

To: Montana District Court Judges and Clerks
Montana Water Court
Montana Courts of Limited Jurisdiction Judges

FROM: Mike McGrath
Chief Justice

Thank all of you for your efforts during this extraordinary time. I am impressed with the dedication and creativity that judges, clerks and employees have shown as we continue to meet our constitutionally mandated duties.

As you know, the Governor has modified the Shelter in Place Order effective April 26, 2020, but with barriers precluding the full return to normal in the court system. The Supreme Court is extending its March 27, 2020 order until May 4, 2020, to allow courts time to plan for a gradual reopening for necessary in-person work and to consult with local public health officials about any local requirements. I am strongly recommending your local discussions include all courts and clerks located in shared buildings so as to provide consistency to litigants, attorneys and others.

Earlier this afternoon the Office of Court Administrator sent out guidelines for returning staff to the workplace.

The Governor's Directive is quite extensive and has pertinent information for the courts moving forward. You may find the information at https://covid19.mt.gov.

I am asking courts to implement the following practices, at a minimum, after May 4, 2020:

1. Continue using remote-hearing or telephonic hearings for most cases, which will allow you to limit the number of people in a courthouse and in a courtroom. Attorneys or litigants who are considered to be at high-risk if exposed to COVID-19 should be allowed to appear remotely if requesting to do so.
2. Physical distancing in courthouses, courtrooms and offices must be maintained. A minimum of six feet between individuals must be maintained **with no more than 14 people in circumstances that do not readily allow for appropriate physical distancing.** Again, this will present challenges to each court, which will have to be addressed locally.
3. Courts must work with local public health officials to determine how to screen individuals entering the courthouse. **We are currently trying to determine how to pay for these services for District Courts— we do not expect county health officers to shoulder these costs.** At a minimum, extensive signage should be posted requiring people who are ill to not enter the building and to adhere to all recommended hygiene practices recommended by the CDC. Screening may also include temperature checks if supported and recommended by local public health officials.
4. Hand sanitizer must be widely available in public spaces and in courtrooms and other locations throughout the buildings. Building maintenance must have a detailed plan for disinfecting and cleaning the building throughout the day.

5. Courts are strongly encouraged to require the use of face coverings or masks for people entering the courthouse. The CDC has indicated masks can assist in stopping the transmission of the illness by an asymptotic person and may be helpful in slowing the spread of COVID-19. **Again, we are working on providing masks for District Courts at the state's expense.**
6. Judges must plan locally for returning to necessary jury trials. This planning should include consultation with the attorneys involved in the cases, local law enforcement, and local public health entities. Jury trials must be conducted in such a manner as to maintain social distance and protect the health of jurors and others coming in and out of buildings. At a minimum, courts must:
    a. Manage voir dire beginning with enhanced questionnaires to identify those in the potentially at-risk category;
    b. Excuse jurors in advance who may be at high-risk or have other appropriate reason to not report (lack of childcare, caring for a high-risk person, etc.);
    c. Call jurors in smaller groups and space jurors throughout the building for voir dire;
    d. Seat jurors in compliance with physical distancing during the trial and deliberations;
    e. Limit any in-court spectators; and,
    f. Make hand sanitizer and masks available to jurors and others in the courtroom.

7. The state Judicial Branch will continue to limit non-essential travel for all staff. This may result in cancellation of non-essential meetings. Each judge locally will need to make decisions about what is non-essential.

This is, and will remain, a fluid situation and will require a great deal of flexibility moving forward. I recommend you continue staying in touch with your peers in your courthouse and with each other to share ideas. I will monitor recommendations at the state-level and will provide direction as needed. Again, I remain impressed by the Judicial Branch's ability to adapt and to show leadership in this unprecedented situation. Be well.