FILED
APR 02 2020
CLERK SUPREME COURT

In the Iowa Supreme Court

In the Matter of Ongoing Provisions For Coronavirus/COVID-19 Impact On Court Services	)))	**April 2, 2020 Order**

Since March 12, 2020, the Iowa Supreme Court has issued seven supervisory orders relating to the spread of the novel coronavirus/COVID-19. This order combines all of those orders, only substantively changing the dates to reconvene court proceedings to reflect the extension of the ongoing State of Public Health Disaster Emergency and the Iowa Department of Public Health's anticipated peak of the virus.[1] In doing so, it extends the dates and dispensations concerning Iowa's courts to allow time for the relaxation of social distancing rules by reconvening bench trials first and gradually easing into larger gatherings of people with the commencement of jury trials.

This order replaces all previous supervisory orders relating to the spread of the novel coronavirus/COVID-19 in their entirety. The Iowa Judicial Branch continues to carefully monitor the public health situation, balancing the need to take measures to reduce the spread of the virus with its commitment to conducting business as necessary. Accordingly, the supreme court directs as follows pursuant to its available legal authority, including Article III, section 1 and Article V, section 1 of the Iowa Constitution.

EMERGENCY/ESSENTIAL MATTERS

1. **Emergency proceedings.** District courts shall continue to conduct the following in-person business:

[1] Barbara Rodriguez, *Data begins to offer clues on how many COVID-19 cases could appear in Iowa—and how many deaths*, DES MOINES REG. (Apr. 1, 2020) https://www.desmoinesregister.com/story/news/health/2020/04/01/data-offers-clues-potential-covid-19-cases-deaths-iowa-covonavirus/5094043002/.

- Trials and hearings already in progress;
- Criminal matters that cannot be continued or conducted by videoconference or telephone (pursuant to this order or otherwise); and
- Emergency matters that cannot be conducted by videoconference or telephone

2. **Emergency and essential services.** Emergency and essential services encompass the following:
    - The protection of vulnerable people, such as the elderly, children, and persons with disabilities;
    - Initial appearances, preliminary hearings, bail hearings, and arraignment for criminal defendants;
    - Hearings related to quarantine orders and other public-health related matters;
    - Protection orders for individuals who fear for their safety; and
    - Search warrants and other law enforcement actions.

    For example, emergency matters may include substance abuse treatment proceedings pursuant to Iowa Code chapter 125, hospitalization proceedings pursuant to chapter 229, removal proceedings pursuant to chapter 232, elder abuse proceedings pursuant to chapter 235B, dependent adult abuse proceedings pursuant to chapter 235F, protective orders pursuant to Iowa Code chapter 236 or 236A, motions to quash garnishments pursuant to chapter 642, and forcible entry and detainer proceedings pursuant to chapter 648 where the tenancy poses a clear and present danger. **This list is not intended to be exclusive and judicial officers shall determine what constitutes an emergency within the meaning of this paragraph.** Judicial officers may direct that an emergency matter be conducted by videoconference or telephone.

3. **Notify.** An attorney or party participating in in-person business must promptly notify opposing counsel and the respective Clerk of Court's Office if they reasonably suspect that a participant in any scheduled hearing, trial, conference, deposition, or other proceeding may have an elevated risk of transmitting the novel coronavirus that causes COVID-19. Guidance on who is considered to have an elevated risk can be found on the websites for the Centers for Disease Control and Prevention (https://www.cdc.gov/), the Iowa Department of Public Health (https://idph.iowa.gov/), and the Iowa Judicial Branch (www.iowacourts.gov).
4. **Inquire.** To the extent possible, counsel must affirmatively inquire of their clients and witnesses participating in in-person business whether they have an elevated risk of transmitting the novel coronavirus that causes COVID-19.
5. **No in-person attendance.** No person who has an elevated risk of transmitting the novel coronavirus that causes COVID-19 may personally attend any clerk of court's office, hearing, trial, conference, deposition, or other proceeding without prior authorization from the court.

CRIMINAL

6. **Nonjury trials.** Any criminal nonjury trial that is scheduled to begin before June 1, 2020m shall be continued and reset to a date no earlier than June 1.
7. **Jury trials.** Any criminal jury trial that is scheduled to begin before July 13 shall be continued and reset to a date no earlier than July 13. In rescheduling criminal jury trials, the court shall give first priority to those trials where speedy trial has not been waived and the defendant is in custody, second priority to those trials where speedy trial has not been

waived and the defendant is not in custody, and third priority to those trials where speedy trial has been waived and the defendant is in custody.

8. **Criminal trial postponements.** As before, the court finds the COVID-19 outbreak constitutes good cause within the meaning of Iowa R. Crim. P. 2.33 for any trial postponements. In addition, because significant logistical issues – including a backlog of cases - are expected even when trials restart, the court finds good cause to extend the speedy trial deadline in rule 2.33(2)(b) beyond ninety days. Accordingly, for any case in which an indictment or information has been or is filed prior to July 13, 2020, the ninety-day deadline in rule 2.33(2)(b) and rule 2.33(2)(c) shall be expanded to 120 days, and shall be restarted with July 13, 2020 as Day 1. For any case in which an indictment or information has been or is filed prior to July 13, 2020, the one-year deadline in rule 2.33(2)(c) shall commence from April 20 or the date of filing, whichever is later.
9. **Pretrial release.** Judicial officers are encouraged to consider pretrial release options available under Iowa Code chapter 811.
10. **Initial appearances and preliminary hearings.** Through August 3, magistrates and other judicial officers may conduct initial appearances by videoconference or telephone. As before, the defendant may waive initial appearance by executing a written waiver that provides the information that the defendant is entitled to receive at the initial appearance. See Iowa R. Crim. P. 2.2(1)-(4)(a).

    Through August 3, defendant may waive the preliminary hearing over the telephone with the court, and the waiver need not be electronically recorded or reported, so long as the court indicates in the court file that the hearing has been waived.

    Through August 3, written waivers of initial appearance or arraignment need not be under oath.

11. **Waiver of personal appearance.** Through August 3, for a proceeding other than trial and sentencing in which the defendant's personal appearance is required under normal circumstances the defendant may execute a written waiver of appearance, with the consent of the district court.

12. **Speedy indictment deadline.** Commencing March 17, for any defendant who is arrested and makes an initial appearance on or before June 1, the 45-day speedy indictment deadline in Iowa R. Crim. P. 2.33(2)(a) is extended to 60 days. This means that for any case in which the speedy indictment deadline has not run, as of March 17, and where the defendant is arrested and makes an initial appearance on or before June 1, 15 days are added to the time period.

13. **Grand jury proceedings.** All grand jury proceedings shall be suspended until July 13.

14. **Bond reviews.** Through August 3, magistrates and other judicial officers may conduct bond reviews by videoconference or telephone. Attorneys may waive the defendant's presence on the defendant's behalf and allow the court to make a bond determination on written submissions or affidavits.

15. **Written guilty pleas.** Through August 3, district courts may accept written guilty pleas in felony cases in the same manner as in serious and aggravated misdemeanor cases. See Iowa R. Crim. P. 2.8(2)(b) (last paragraph).

16. **Presentence investigation reports.** To facilitate sentencing without the personal presence of the defendant in the courtroom, through August 3, notwithstanding Iowa Code section 901.4, presentence investigation reports may be shared with defendants in advance of sentencing subject to reasonable safeguards.

17. **Sentencing procedures.** For felony or misdemeanor sentencing hearings through August 3, district courts may allow any party (the prosecutor, defense counsel, defendant, victims and witnesses) to appear by videoconference or telephone with that party's consent. To appear by videoconference or telephone, the defendant shall either (a) execute a written waiver or (b) make a waiver on the record. Other parties need not execute a waiver.

18. **Sentencing in felony matters by written agreement with court approval.** Through August 3, where the prosecutor and the defendant have reached an agreement as to sentence, and the agreement is accepted by the court, the court has the discretion to pronounce judgment and sentence by written order without the parties appearing in videoconference or telephonically, provided the following conditions are met: (a) the defendant and defense counsel each must waive in writing the defendant's presence and right of allocution (the defendant may of course submit a written statement), (b) the prosecutor must submit a written statement waiving presence and verifying that there are no victims who want to be heard in person, and (c) the agreement as to sentence must be signed by the defendant and both the agreement and the court's approval must be made a part of the court file.

19. **Traffic-related proceedings.** All traffic-related proceedings set to commence before June 1 shall be rescheduled to a date no earlier than June 1 unless the traffic-related proceeding is a jury trial. Jury trials shall commence at a date no earlier than July 13.

CIVIL CASES, INCLUDING FAMILY LAW

20. **Nonjury trials.** Subject to paragraphs 1 and 2 herein, all civil nonjury trials and other hearings set to commence before June 15 shall

be either continued to a date no earlier than June 15 or conducted by telephone, at the discretion of the district court.

21. **Jury trials.** All civil jury trials set to commence before August 3 shall either be continued to a date no earlier than August 3.

22. **Mediation.** Any mediation set to occur at a courthouse location before June 1 shall be continued or directed to occur by videoconference or telephone, at the discretion of the district court.

23. **Forcible entry and detainer proceedings.** Subject to paragraphs 1 and 2 herein, all forcible entry and detainer proceedings set to commence before June 15 shall be either continued to a date no earlier than June 15 or conducted by telephone, at the discretion of the magistrate or other judicial officer. The small claims division shall retain jurisdiction for all proceedings continued pursuant to this paragraph. Any resumption of forcible entry and detainer proceedings hereunder is subject to the terms of any proclamation issued by the Governor.

24. **Online courses.** District courts may temporarily approve attendance at an online course for purposes of compliance with Iowa Code section 598.15 (required course for cases involving child custody or visitation).

25. **Iowa Rule of Probate Procedure 7.6.** The court temporarily suspends the operation of Iowa Rule of Probate Procedure 7.6 concerning the delinquency of final reports and attorney discipline in delays to estate closures.

26. **Original notices.** For all original notices to be served in accordance with Iowa Rules of Civil Procedure 1.302, 1.305, or 1.306, and if the deadline for the original notice falls between March 23, 2020, and June 15, 2020, the serving party is granted through June 15, 2020, to complete service.

27. **Signature on civil court documents—Iowa Rule of Electronic Procedure 16.305(3).** The court temporarily amends rule 16.305(3) of the Iowa Rules of Electronic Procedure to allow a person to sign a civil court document electronically with "/s/" followed by the person's typed full name or with "/person's name/." If the document is a civil court form that includes the signature block of identifying information, including the person's address, telephone number, and email address, that information must be provided with the electronic signature. See Comment to Iowa Ct. R. 16.305(4).

Attorneys are temporarily permitted to sign civil court documents for their clients with "/s/" if the attorney has received oral verification from the client that (a) the client desires to sign the document, (b) the client authorizes the attorney to sign on the client's behalf, and (c) the client understands that the signature will bind the client as if the client signed the document personally. This temporary permission also applies to notices of appeal in termination-of-parental-rights and child-in-need-of-assistance cases. See Iowa Ct. R. 6.012(1)(a).

A notary public signature cannot be electronic "/s/" or "/person's name/." Notaries public are encouraged to follow the Iowa Secretary of State's March 25, 2020 media release and any updated releases since that date. This temporary amendment of rule 16.305(3) is limited to civil matters only, including notice of appeal filings brought under chapter 232.

28. **Court forms revision to eliminate mandatory notarization.** To minimize in-person interactions when possible, the court has eliminated notarization requirements when permitted in the Iowa Court Rules and court forms published to the judicial branch website.

JUVENILE CASES

29. **Non-delinquency matters.** Non-delinquency juvenile matters set to commence before June 15 shall be either continued to a date no earlier than June 15 or conducted with the parties and/or participants appearing remotely using video or phone conferencing at the discretion of the court.

30. **Delinquency matters.** Juvenile delinquency proceedings shall be subject to any of the foregoing criminal proceeding directives that by their nature would apply to juvenile delinquency cases.

PROBLEM SOLVING COURTS

31. **Use of technology encouraged.** The court may conduct conferences and hearings using video or phone conferencing when it believes it would be practical and efficient to do so.

APPELLATE ORAL ARGUMENTS

32. **No in-person oral arguments.** Through July 13, 2020, the appellate courts will not hear in-person oral arguments. At the court's discretion, cases currently scheduled for oral argument may be submitted nonorally. See Iowa R. App. P. 6.908(2). The appellate court may in its discretion hear currently scheduled oral argument cases by videoconference or telephone conference. Cases scheduled for nonoral submission shall remain nonoral.

STATUTE OF LIMITATIONS

33. **Tolled.** Any statute of limitations, statute of repose, or similar deadline for commencing an action in district court is hereby tolled from March 17 to June 1 (76 days). Tolling means that amount of time to the statute of limitations or similar deadline. So, for example, if the statute would run on April 8, 2020, it now runs on June 23, 2020 (76 days later).

CHILD CUSTODY

34. **Child custody, care, or visitation.** For purposes of determining a parent's right of physical custody, care, or visitation to a child under a previously entered court order, any custody, visitation or care schedule that is related to a school schedule shall be uniformly interpreted to refer to the school schedule for the school where the child attends that was in place prior to any school closure or suspension caused by the COVID-19 virus. Custody, care, or visitation of a child shall follow a schedule as if school is in session and shall not be impacted or modified by the school closure. A school closure caused by the COVID-19 virus does not extend or modify a parent's custody, care, or visitation beyond any period designated in a prior court order. A school closure caused by the COVID-19 virus does not amount to an extension of spring break or the beginning of summer break. A parent currently exercising custody, care, or visitation of a child in violation of a court order should immediately return the child to the original court ordered schedule.

Nothing contained in this order prevents both parents of a minor child from mutually agreeing to modify a previous court order. Nothing contained in this order prevents a court from altering, amending, modifying, clarifying, or enforcing court orders within its sound discretion and consistent with the law of this State. Further, this order does not limit the ability of the court to hear and address emergency matters on a case-by-case basis in the discretion of the court.

OFFICE OF PROFESSIONAL REGULATION

35. **Unmoderated CLE cap.** The six-hour cap on unmoderated CLE set forth in Rule 41.3(3) is hereby temporarily lifted for the current reporting period.

36. **Remote meetings.** Meetings of the Board of Law Examiners, Attorney Disciplinary Board, Commission on Continuing Legal Education, Client Security Commission, Lawyers Trust Account Commission, Commission on the Unauthorized Practice of Law, and the Board of Examiners of Shorthand Reporters, may be held telephonically or via video conferencing.

37. **Electronic complaint submissions.** Complaints against attorneys pursuant to Rule 35.2, claims of the unauthorized practice of law pursuant to Rule 38.5, and claims for reimbursement from the Client Security Commission pursuant to Rules 39.9 and Chapter 40, may temporarily be made using an electronic submission form, which will be available on the court's website.

38. **Remote hearings.** Hearings set forth in Chapters 31, 34, 35, 36, 42, 46, and 47 shall temporarily be held telephonically or via videoconference. This includes hearings that are currently scheduled. However, upon request of the respondent, Chapter 36 hearings shall be postponed until such time as they can be held in person.

39. **Electronic filing.** All parties to Grievance Commission proceedings shall now temporarily participate in the electronic filing option set forth in Rule 36.6. This includes matters that are currently in litigation.

40. **Client Security Commission.** The Client Security Commission is hereby temporarily authorized to be appointed as a trustee under Rule 34.17 and Rule 34.18 without need for supreme court confirmation. Upon termination of a Rule 34.17 or Rule 34.18 trusteeship or upon the request of the Client Security Commission, all remaining attorney files may be ordered immediately destroyed.

41. **Annual attorney report late fees.** The attorney annual report late fees set forth Rule 39.8(1) (Client Security report) and Rule 41.4(4) (CLE

report) shall remain at $100 per report until subsequent order. Attorneys who have not yet filed their required annual reports are highly encouraged to do so before the higher late fees are reinstated.

GENERAL

42. **Temporary authorization of filing by email for certain nonregistered self-represented and exempt persons.** Through June 1, the court temporarily authorizes filing by email (a) for all self-represented persons who have not already registered for EDMS and (b) for all persons excused from the EDMS registration and electronic filing requirements pursuant to rule 16.302(3) who have not already registered for EDMS filing. Persons who are already registered EDMS filers must continue to file all court documents through the EDMS system as usual. To file by email, the self-represented or exempt person must first contact the appropriate clerk of court to get the appropriate email address to receive the filing. The self-represented or exempt person must then email the filing to the clerk in PDF format, who will then file the document.

The document should not be considered filed until the self-represented or exempt person receives a confirmatory email from the clerk that the filing has been made. The clerk's acceptance of such emailed documents does not waive the filer's obligation to comply with court rules regarding appropriate redaction and service of the emailed documents. Notwithstanding any provision of chapter 16 of the Iowa Court Rules, small claims actions may be filed in paper (not only EDMS) through June 1.

43. The court temporarily suspends any requirement that judges and court reporters travel together to and from court hearings.

44. The court temporarily suspends the operation of any Iowa Court Rule or statute to the extent that it is contrary to any provisions of this order.

45. The court will continue to monitor circumstances and update this order as necessary.

THE SUPREME COURT OF IOWA

By _____
Susan Larson Christensen, Chief Justice

Copies to:
Iowa Supreme Court
Iowa Court of Appeals
Chief Judges
Senior Judges
District Court Judges
District Associate Judges
Magistrates
State Court Administrator
District Court Administrators
Supreme Court Clerk
District Court Clerks
Chief Juvenile Court Officers
The Iowa State Bar Association
Polk County Bar Association
The Iowa State Association of Counties
The Iowa State Sheriffs' and Deputies' Association
Iowa Attorney General
Iowa State Public Defender
Iowa League of Cities
Iowa State Police Association
Iowa Peace Officers Association
Iowa Department of Public Safety
Iowa Association for Justice
Iowa Defense Counsel Association
Iowa Academy of Trial Layers
Iowa Court Reporters Association
Iowa Clerks Association
Association of Corporate Counsel-Iowa Chapter
Iowa Organization of Women Attorneys
Thomson Reuters (Westlaw)
Mead Data Central, Inc. (Lexis)