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CLERK SUPREME COURT

In the Iowa Supreme Court

In the Matter of Ongoing Provisions For Coronavirus/COVID-19 Impact On Child Welfare and Juvenile Justice Youth and Families	))))	**April 6, 2020 Order**

The Iowa Judicial Branch is carefully monitoring the situation regarding the spread of the novel coronavirus/COVID-19. Youth and families involved with the child welfare and juvenile justice systems are of particular concern because those youth often have suffered trauma, including the trauma of removal from their homes. Consistent family interactions are essential in the successful reunification of families. In these unprecedented and uncertain times, the court must balance attempts to reunify children and their families with the reality of how that effort may put their health and safety at risk according to the guidelines from public health officials and the anticipated peak of the virus in our state.[1]

After consultation with the Iowa Department of Human Services (DHS), the State Public Defender's Office (SPD), and Juvenile Court Services (JCS), and taking into consideration the guidelines put into place by the Iowa Department of Public Health[2] and the Center for Disease Control and Prevention,[3] the court temporarily implements the following practices and policies for youth and families involved with the child welfare and juvenile justice systems. This order replaces the Guidance to Juvenile Judges issued on March 20, 2020.

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[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/.

[2] *Novel Coronavirus*, IOWA DEP'T OF PUBLIC HEALTH, https://idph.iowa.gov/Emerging-Health-Issues/Novel-Coronavirus (last updated Apr. 5, 2020).

[3] *Coronavirus (COVID-19)*, CTRS. FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/coronavirus/2019-ncov/index.html (last updated Apr. 5, 2020).

The supreme court will monitor the implementation of this order. **This order is intended to be temporary.** On or before May 1, 2020, updated information on the pandemic will be reviewed and this order will be evaluated to determine whether it should remain in place until June 1, 2020. DHS and SPD are expected to participate in the monitoring and evaluation process

GENERAL POLICY

1. **Current Law**. The court is not waiving statutory or federal requirements for removal, reasonable efforts, judicial review or permanency for Iowa's youth and families involved with the child welfare and juvenile justice systems. All statutory and federal requirements and deadlines are still in place. Judges, community providers, DHS staff, JCS staff, attorneys, guardians ad litem, parents and all other parties are expected to comply with existing court orders.

CHILD WELFARE

2. **Family Reunifications**. Juvenile court and DHS are expected to expedite the reunification of families if the youth's safety will not be jeopardized.
3. **Individualized Determinations**. Family time should be protected and prioritized. DHS and the juvenile court should make individualized determinations if in-person visits can be conducted in a safe manner, and monitor guidance from public health authorities such as the Centers for Disease Control and Prevention (CDC) and Iowa Department of Public Health (IDPH), and medical experts such as the American Academy of Pediatrics (AAP) to inform their analyses. Professionals should consider creative means to effectuate family time, including expanding the scope of kin who might assist with transportation or supervision, moving visits outdoors, and allowing unsupervised visits where there are no concrete safety concerns. If in-person visits cannot be conducted in a safe manner, remote family interactions using video technology should be

liberally permitted. Until schools reopen more frequent telephone and virtual contact with family should be a priority.

4. **Access to Technology**. If virtual family time is utilized as a reasonable effort to reunification, DHS is expected to assist families with access to technology for those families who do not have access to remote technology. For example, DHS could provide equipment or access to a place where the technology is available.
5. **Frequency of Family Interactions**. DHS is expected to increase the frequency of virtual family time in those cases where DHS and the juvenile court have made an individual determination that in-person family time is temporarily not appropriate.

EMERGENCY MATTERS

6. **Emergency Proceedings**. Emergency proceedings include but are not limited to the following matters:
    a. Proceedings for removal of a child or out of home placement (family foster care, relative care, suitable other, group care or detention) pursuant to chapter 232;
    b. Hospitalization proceedings pursuant to chapter 229;
    c. Substance abuse treatment proceedings pursuant to chapter 125;
    d. Proceedings under Chapter 135L for waiver of parental notification; and
    e. Protective orders pursuant to chapters 236 or 236A.

If the juvenile court determines it is not safe to hold an emergency hearing in-person, or if the child's parents/custodians waive an in-person hearing in writing, then the emergency hearing shall be held remotely. To facilitate assisting a parent in making a decision about remote participation in the removal hearing, the juvenile court may consider appointing counsel for parent(s) at the

time of the issuance of an ex parte removal order subject to the parent later filing an application for court appointment.

For petitions for relief from domestic abuse/sexual abuse where the respondent/defendant is a minor, the clerk should copy the county attorney so they can make contact with the applicants to see if they have arranged for their own counsel or are asking for the county attorney to appear with them. The juvenile court can make arrangements so those hearings can occur in as safe a way as possible.

CHILDREN IN NEED OF ASSISTANCE (CINA) PROCEEDINGS

7. **Hearings**. Those hearings that are set between April 6, 2020 and June 15, 2020 should either be continued until after June 15, 2020, or should ONLY be conducted by video or phone conferencing. Uncontested hearings should use remote technology. Contested hearings, such as a contested adjudication hearing or termination hearing, may be conducted via remote technology if all parties agree, and thereafter file a written waiver of personal appearance or waive such appearance on the record. If one party objects to proceeding by phone, and the juvenile court believes the matter should nonetheless go forward and not be postponed, then the court can order telephonic testimony.

GUARDIANSHIP CASES

8. **Hearings.** Iowa Code §§ 232D.306 and 633.560 require a hearing not less than twenty days after the date that notice is served.
9. **Emergency Appointments**. Iowa Code §§ 232D.309 and 633.659 require a hearing within seven days. Those statutes do not expressly provide that those hearings must be in-person. These hearings could be held remotely, especially if all parties provide written consent to remote proceedings or consent to remote proceedings on the record.

10. **Required Reports**. 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 EDMS registration and electronic filing requirements pursuant to rule 16.302(3). 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 confirmatory email from the clerk that the filings have 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.

JUVENILE JUSTICE YOUTH

11. **Discharge**. JCS is encouraged to review the status of youth in congregate care who may be appropriate for early discharge after careful planning and consultation with the youth, care takers, family members, child's attorney, county attorney and the juvenile court. JCS must balance what is in youth's best interest and the best interest of the community. Considerations must also take into account what community based resources are available to help successfully transition the youth back into the community.

12. **Individualized Determinations**. Family time should be protected and prioritized. JCS and the juvenile court should make individualized determinations if in-person visits can be conducted in a safe manner, and monitor guidance from public health authorities such as the Centers for Disease

Control and Prevention (CDC) and Iowa Department of Public Health (IDPH), and medical experts, such as the American Academy of Pediatrics (AAP) to inform their analyses. Professionals should consider creative means to effectuate family time, including expanding the scope of kin who might assist with transportation or supervision, moving visits outdoors, and allowing unsupervised visits where there are no concrete safety concerns. If in-person visits cannot be conducted in a safe manner, remote family interactions using video technology should be liberally permitted. Until schools reopen more frequent telephone and virtual contact with family should be a priority.

13. **Access to Technology**. If virtual family time is used as a reasonable effort to reunification, JCS and providers are expected to assist families with access with technology for those families who do not have access to remote technology. For example, JCS or providers could provide equipment or access to someplace where the technology is available.

14. **Frequency of Family Interactions**. JCS and providers are expected to increase the frequency of virtual family time in those cases where JCS and the juvenile court have made an individual determination that in-person family time is temporarily not appropriate.

15. **Electronic Monitoring**. This may be used to enhance supervision of high-risk youth.

16. **Detention Alternatives**. JCS staff should continue to use existing risk assessment tools in determining appropriateness of detention placements.

Dated this 6th day of April, 2020.

THE SUPREME COURT OF IOWA

By _____

Susan Larson Christensen, Chief Justice

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