FILED
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DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order

2020-PR-016

Order Imposing Statewide Judiciary Restricted Operations Due to COVID-19 Emergency

This order complements Administrative Orders 2020-PR-13 and 2020-PR-15 on actions to mitigate local or statewide outbreak of the COVID-19 disease. This order supersedes any portion of district court orders or prior orders of this court conflicting with this order.

On March 11, 2020, the World Health Organization declared COVID-19 disease a pandemic. On March 12, 2020, Kansas Governor Laura Kelly declared a state of disaster emergency. On March 13, 2020, President Donald Trump declared a national emergency. These declarations warrant extraordinary measures to mitigate COVID-19 spread.

Due to the outbreak of COVID-19, an emergency exists that poses a threat of imminent and potentially lethal harm to vulnerable individuals who may come in contact with a carrier of COVID-19. To date, to the extent possible and consistent with guidance issued by the Centers for Disease Control and Prevention and the Kansas Department of Health and Environment, Kansas courts and judicial offices have remained operational and provided scheduled and required events while balancing the health and safety needs of court visitors and personnel during the early stage of this emergency. But rapid escalation of the emergency requires more comprehensive measures to protect the health and safety of Kansans, including our judicial branch employees and judges. Further, many county commissions across Kansas have closed or are considering closing courthouses.

As the Chief Justice of the Kansas Supreme Court, in consultation with the members of the Kansas Supreme Court, I have determined the following actions are necessary to secure the health and safety of court users, staff and judicial officers:

1. All jury trials, both civil and criminal, scheduled to begin in any Kansas state court on or after the date of this order are continued until further order of the Chief Justice. Questions concerning prospective scheduling of hearing or trial dates should be directed to the assigned judge.

2. Civil and criminal jury trials that are in progress as of March 18, 2020, may continue to conclusion, in the discretion of the assigned judge. The assigned judge

should encourage jurors to follow Centers for Disease Control and Prevention and Kansas Department of Health and Environment guidance on reducing the spread of COVID-19 to the extent possible. The assigned judge should consult with their Chief Judge regarding personnel required to complete the jury trial in progress.

3. Effective upon publication of 2020 House Substitute for Senate Bill No. 102, this order suspends all deadlines and time limitations to bring a defendant to trial established by K.S.A. 22-3402 and its amendments, until further order of the Chief Justice.

4. Other than jury trials in progress, all Kansas district and appellate courts, administrative offices, the Offices of the Clerks of the District and Appellate Courts, and court services offices will be restricted to emergency operations until further order. Each Chief Judge must ensure that information is posted to inform members of the public how to contact court personnel.

5. Emergency operations for the district courts include:

CRIMINAL:

- Determining probable cause for persons arrested without a warrant (within 48 hours of arrest), *Riverside v. McLaughlin,* 500 U.S. 44 (1991) (bond may be set).

- Conducting first appearances, K.S.A. 2019 Supp. 22-2901 ("without unnecessary delay").

- Setting appearance bonds; conditions of release pending preliminary examination or trial, K.S.A. 2019 Supp. 22-2802 (set at first appearance). Note: Arrest for Criminal Trespass/Restraining Order Violation, K.S.A. 2019 Supp. 22-2901(7) (person shall not be allowed to post bond before first appearance as long as first appearance occurs within 48 hours after arrest).

- Issuing warrants pursuant to K.S.A. 2019 Supp. 22-2302 (arrest); K.S.A. 2019 Supp. 22-3716 (violations of probation); K.S.A. 2019 Supp. 22-2502 (searches and seizures); K.S.A. 22-2816 (violation of supervised release program); K.S.A. 22-2805 (holding a material witness); and K.S.A 22-2911 (violation of diversion agreement), see also K.S.A. 22-2912 (district court rules for diversion procedures).

- Issuing orders for wiretaps, K.S.A. 2019 Supp. 22-2516.

- Conducting inquisitions, K.S.A. 22-3101, K.S.A. 2019 Supp. 22-3102, K.S.A. 22-3103, K.S.A. 22-3104, and K.S.A. 22-3105.

JUVENILE OFFENDER:

- Conducting juvenile detention hearing, K.S.A. 2019 Supp. 38-2343(a) (48 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, from the time detention initially imposed).

- Issuing warrants for juvenile offenders, K.S.A. 2019 Supp. 38-2342.

CARE AND TREATMENT:

- Commitment of sexually violent predator, K.S.A. 2019 Supp. 59-29a05(b) (Probable cause hearing within 72 hours after person is taken into custody upon the filing of a petition under K.S.A. 2019 Supp. 59-29a04 and a finding of probable cause).

- Issuing ex parte emergency custody orders, K.S.A. 59-2958 (mental illness) and K.S.A. 59-29b58 (alcohol and substance abuse).

- Issuing temporary custody orders, K.S.A. 59-2959 (mental illness) and K.S.A. 59-29b59 (alcohol and substance abuse).

CHILD IN NEED OF CARE:

- Issuing ex parte orders for CINC, K.S.A. 2019 Supp. 38-2242(a)

- Issuing ex parte orders for violation of a valid court order in CINC proceedings, K.S.A. 2019 Supp. 38-2260(c)

- Conducting preliminary hearings on violation of a valid court order in CINC proceedings, K.S.A. 2019 Supp. 38-2260(d)

- Conducting evidentiary hearings on violation of a valid court order in CINC proceedings, K.S.A. 2019 Supp. 38-2260(e)

- Conducting temporary custody hearing, K.S.A. 2019 Supp. 38-2243(b) (72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, from child being taken into protective custody).

PROTECTION FROM ABUSE ORDERS:

- Issuing protection from abuse emergency orders, K.S.A. 2019 Supp. 60-3105.

- Issuing protection from stalking orders on an emergency basis, K.S.A. 2019 Supp. 60-31a06.

MISCELLANEOUS:

- Conducting hearings and issuing orders of isolation or quarantine, K.S.A. 65-129c(d)(3) (hearing within 72 hours of request contesting isolation/quarantine by order of local health officer).

- Considering petitions to waive notice regarding abortion upon a minor, K.S.A. 65-6705(f). See also Supreme Court Rule 173 (The court must hold a hearing and issue its order, stating findings of fact and conclusions of law, no later than 48 hours after the petition is filed, excluding Saturdays, Sundays, and holidays) [Note: the statute does not exclude holidays].

- Any other matters that would require expeditious handling.

6. Emergency operations for the appellate courts include:

   - Appeals, motions, or original actions arising from the emergency operations of the district court;

   - Any other appeal, motion, or original action requiring expeditious resolution.

7. To the extent feasible, any emergency operation must be conducted by two-way electronic audio-visual communication. Such communication is authorized for any court proceeding outside of jury trials to the extent permitted by the United States and Kansas Constitutions and rules related to judicial conduct.

8. Each Chief Judge of the District Courts, the Chief Judge of the Court of Appeals, and the Chief Justice of the Kansas Supreme Court must assure each respective court has sufficient judges to hear the emergency matters listed in paragraphs 5 and 6 each weekday during the effective dates of this Administrative Order.

9. Essential personnel—as identified by each Chief Judge of the District Courts, the Chief Judge of the Court of Appeals, the Chief Justice of the Kansas Supreme Court, and the Judicial Administrator of the State of Kansas—will report as required. If an employee identified as essential is unable to serve due to illness or has otherwise been excused consistent with applicable leave policies, a substitute shall be determined by that employee's administrative head.

10. Either essential or nonessential personnel may work remotely.

11. During the effective dates of this Administrative Order, all Kansas district court judges, appellate judges, and Justices of the Kansas Supreme Court must be available to respond in person or remotely by phone, e-mail, or other electronic means, as determined by their chief judge, departmental justice, or Chief Justice.

12. All Deoxyribonucleic Acid (DNA) collection, urinalysis testing, alcohol testing, and home visits performed by Judicial Branch employees are suspended until further order of the Court.

13. All Court Services Officer contact at the jail will be suspended until further order of the Chief Justice, unless the Chief Judge of the Judicial District deems the contact a necessity.

14. Those who have been directed to report on probation or for interviews with Court Services Officers are directed to report by telephone and not report in person. Court Services Officers are responsible for communicating this information to those affected. No additional in-person reporting will take place until further order of the Chief Justice.

15. Effective upon publication of 2020 House Substitute for Senate Bill No. 102, all statutes of limitations and statutory time standards or deadlines applying to the conduct or processing of judicial proceedings is suspended until further order. During the effective dates of this Administrative Order, no action shall be dismissed for lack of prosecution.

Dated this 18th day of March 2020. This order is effective upon filing.

Marla Luckert

MARLA LUCKERT
Chief Justice
Kansas Supreme Court