SUPREME COURT OF WISCONSIN

IN RE THE MATTER
OF REMOTE HEARINGS
DURING THE COVID-19 PANDEMIC

ISSUED MAR. 22, 2020; AMENDED APR. 15, 2020

FILED

APR 15, 2020
Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

WHEREAS Governor Evers has declared a public health emergency for the State of Wisconsin in connection with the COVID-19 pandemic; and

WHEREAS the United States Centers for Disease Control has issued guidance related to the COVID-19 pandemic recommending, inter alia, that organizations develop and implement flexible attendance policies that allow employees to stay home when sick, to remain home to care for sick household members, or to work from home when possible; and

WHEREAS the Supreme Court has administrative and superintending authority over the courts and judicial system of this state and a duty to promote the efficient and effective operation of the state's judicial system, Wis. Const. Art. VII, § 3; In re Kading, 70 Wis. 2d 508, 519-20; 235 N.W.2d 409 (1976); and

WHEREAS the Supreme Court has determined that, in light of the existing public health emergency and to protect the health of the public and the individuals who work for the courts of this state, it is necessary to limit temporarily the number of individuals who are physically present within the courts of this state and to temporarily modify certain procedures to ensure that the essential operations of the courts continue in an appropriate manner during the present public health emergency; and

WHEREAS on April 14, 2020, a formal request was filed by the Milwaukee County District Attorney requesting clarification of this order as it relates to certain juvenile proceedings; and

WHEREAS this temporary administrative order AMENDS the Court's order dated March 22, 2020.

NOW THEREFORE, IT IS HEREBY ORDERED that the courts of the State of Wisconsin remain open. Nevertheless, all in-person proceedings in all appellate and circuit courts are hereby suspended until further order of this court. This suspension may be modified or terminated by court order as circumstances may warrant. The court will provide advance notice prior to terminating this order.

All judges, court commissioners and court clerks are required to utilize available technologies – including e-mail, teleconferencing, and video conferencing in lieu of in-person courtroom appearances.

Judges may waive in-person appearance requirements otherwise required by statute. See 2019 Wis. Act 185. As such, juveniles intending to admit to the facts of a delinquency petition may do so by teleconference or video conference after waiving their right to personally appear before the court. Practitioners are reminded that certain hearings under Chapters 48 and 938 (e.g., temporary physical custody hearings and emergency in-home to out-of-home change in placement hearings) still need to be held timely under federal law and federal Title IV-E funding requirements.

The suspension of in-person proceedings is subject to the following exceptions if remote technology is not practicable or adequate to address these matters:

- Jury trials, which were addressed by separate order, see In Re the Matter of Jury Trials During the COVID-19 Pandemic, issued March 22, 2020.
- Proceedings necessary to protect the constitutional rights of criminal defendants and juveniles.
- Proceedings involving in-custody defendants, who are not being held on any basis other than the case-at-bar, which will presumptively proceed as timely scheduled.
- Other exceptions approved by the Chief Judge of the Judicial District, the Chief Judge of the Court of Appeals, or the Chief Justice of the Wisconsin Supreme Court, for the respective proceeding, as applicable.

Any party may request a hearing to determine the mode and schedule for any proceeding, which hearing shall be held telephonically or by video conferencing, but all non-essential hearings are to be postponed or conducted remotely.

The presiding judge of each circuit court, subject to the approval of the Chief Judge of the Judicial District; the Chief Judge of the Court of Appeals; and the Chief Justice of the Supreme Court are authorized to determine the manner in which the in-person emergency exceptions are to be conducted in their courts, with remote participation being required when practicable.

Any local or administrative rules that would impede a court clerk, a commissioner or a judge's ability to utilize such technologies are hereby suspended until further order of this court.

This order is intended to be interpreted broadly for protection of the public, court staff and judges from the risks associated with COVID-19.

Notices for essential remote hearings will include information about how to participate based on the individual capabilities of the respective counties or courts, and will be posted on the court's website.

The provisions of this order shall be subject to further modification or termination by future orders.

The State Bar of Wisconsin shall take all reasonable steps to notify its members of the contents of this amended order.

REBECCA GRASSL BRADLEY, J. *(dissenting).* This order drastically changes court proceedings in the entire State. This court's original order, issued on March 22, 2020, suspended in-person court proceedings through April 30, 2020, subject to extension or modification as circumstances warrant. I would retain that end date for this amended order.