JUDICIAL COUNCIL OF CALIFORNIA

STATEWIDE EMERGENCY ORDER BY TANI G. CANTIL-SAKAUYE,

CHIEF JUSTICE OF CALIFORNIA AND CHAIR OF THE JUDICIAL COUNCIL

JUNE 10, 2020

The United States is the epicenter of a global pandemic caused by the COVID-19 virus. As of June 8, 2020, the U.S. Centers for Disease Control and Prevention reported there were over 1.9 million cases in this country, with over 110,000 deaths. California's Department of Public Health reported over 130,000 cases in the state, with over 4,600 deaths.

In response to the spread of COVID-19, Governor Newsom on March 4, 2020, declared a state of emergency in California, which was followed on March 13, 2020, by President Trump declaring a national emergency. Beginning on March 16, 2020, California counties began issuing shelter-in-place or stay-at-home orders. On March 19, 2020, Governor Newsom issued a statewide shelter-in-place order with limited exceptions for emergency and essential critical infrastructure services. In addition, several counties issued local shelter-in-place orders that are more restrictive than the statewide order issued by the Governor.

The Centers for Disease Control and Prevention, the California Department of Public Health, and local county health departments have recommended stringent social distancing measures of at least six feet between people and encouraged vulnerable individuals to avoid public spaces. The continuous operation of our courts is, however, essential for our constitutional form of government, and for providing due process and protecting the public. Courts are, nonetheless, clearly places of high risk during this pandemic because they require gatherings of judicial officers, court staff, litigants, attorneys, witnesses, defendants, law enforcement, and juries. This has required courts to find ways to protect the health and safety of these individuals, while continuing to provide necessary services.

Governor Newsom, continuing to respond to the crisis and assist the courts, on March 27, 2020, issued Executive Order N-38-20, which, among other things, suspends Government Code section 68115 and any other provision of law to the extent that those laws impose or imply a

limitation on my authority to authorize via emergency order or statewide rule, any court to take any action I deem necessary to maintain the safe and orderly operation of the courts.

In response to these circumstances, I issued on March 23, March 30, and April 29, 2020, orders authorizing superior courts to extend the time in which to conduct certain judicial proceedings, including arraignments, preliminary examinations, and both criminal and civil trials.

Recently, the Governor has implemented a four-phase framework for reopening California counties. Counties that meet criteria specified by the California Department of Public Health can be granted a variance by the Governor and begin reopening. As of June 8, 2020, 51 counties have received a variance and are reopening. In addition, local governments are also loosening the restrictions in their local orders and businesses are reopening. Like the rest of California, courts are beginning to adapt to the challenges posed by the pandemic, as they implement social distancing and otherwise address how they can continue to perform their necessary functions. In light of these developments, which vary from county to county, it is appropriate to reassess some provisions in my earlier statewide orders.

Pursuant to my constitutional and other legal authority, including the authority granted by Governor Newsom and the Judicial Council, and by the California Constitution, article VI, section 6, and Government Code section 68115, and after careful consideration, balancing the constitutional due process rights of defendants in criminal proceedings with the health and safety of these defendants, the public, court staff, judicial officers, attorneys, witnesses, jurors, and others present at these proceedings, among other considerations, I find good cause to order:

1. The provision in my March 30 order, in which I authorized courts to issue implementation orders to extend the time period provided in section 825 of the Penal Code within which a defendant charged with a felony offense must be taken before a magistrate from 48 hours to not more than seven days is rescinded effective June 20, 2020.

2. The statewide authority to extend the time period provided in section 825 of the Penal Code will cease to apply beginning with those defendants charged with a felony offense who are arrested on or after June 20, 2020. Courts will retain the statewide authority to extend the time period provided in section 825 of the Penal Code as to defendants charged with a felony offense who are arrested on or before June 19, 2020.

3. Any extensions of time I authorized in an emergency order or orders issued to an individual court pursuant to Government Code section 68115(a)(8) are not affected by this order.

4. To the extent a court needs a further extension of the time period provided in section 825 of the Penal Code, it shall submit a request seeking relief under Government Code section 68115(a)(8) and describe the specific facts supporting the request, and specifically address the efforts the court is making to avoid the necessity of further extensions, including collaboration with justice partners and use of available technology.

I reserve the authority to rescind or modify this order, as appropriate, to address changing circumstances. This order may be deemed part of the record in affected cases for purposes of appeal, without the need to file the order in each case.

Date: June 10, 2020

Tani G. Cantil-Sakauye

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Chief Justice of California and
Chair of the Judicial Council