

<b>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</b> 1437 Bannock St. Denver, Colorado 80202	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> Case No:        2020-03 Courtroom:    259
<b>ADMINISTRATIVE ORDER NO. 2020-03</b>	
<p style="text-align: center;"><b>ORDER AUTHORIZING THE TEMPORARY WAIVER OF CERTAIN FY20 PROBATION STANDARDS DUE TO PUBLIC HEALTH CONCERNS RELATED TO COVID-19 (the “NOVEL CORONAVIRUS”)</b></p>	

The purpose of this order is to provide guidance and authority to the 2nd Judicial District, Denver Adult Probation Department regarding operations based on public health concerns related to the novel coronavirus (“COVID-19”). On April 9, 2020, Colorado Supreme Court Chief Justice Nathan Coats issued *Order Regarding COVID-19 and Operation of Colorado State Probation Departments*, providing Chief Judges with the authority to temporarily waive certain FY20 Probation Standards through May 15, 2020. A copy of Chief Justice Coats’ order is attached to this administrative order.

This order is issued due to the public health risk posed by COVID-19. It is imperative that active steps be taken to slow the spread of COVID-19 and reasonable precautions be followed to reduce exposure to COVID-19, as this pandemic continues to threaten the health and well-being of the community. Equally important to the public’s COVID-19 health concerns is the responsibility of the probation department to provide an appropriate level of supervision and services for all individuals sentenced to supervision, based on the individual probationer’s risk of recidivism and public safety considerations.

Probation Standard 2.01 provides that “[a]dherence to the probation standards described herein is contingent upon the availability of adequate funding resources and adequate staffing levels.” The Denver District Court and Denver Adult Probation Department have employed several precautionary measures designed to reduce the spread of COVID-19, which includes a reduction of the number of employees working at the courts and probation offices at a given time to maintain

the recommended six-feet of social distancing between employees. Most probation employees are working remotely, which makes it difficult to adhere to certain standards. In addition, many outside entities or persons providing services to the probation department have taken measures to reduce the spread of COVID-19 by limiting services and/or reducing staff, which has a direct impact on the probation department's ability to apply and adhere to certain Standards.

**IT IS HEREBY ORDERED:**

- A. Pursuant to Chief Justice Coats' April 9, 2020 order and the authority provided to Chief Judges through that order, the following Probation Standards may be waived if applying these Standards cannot be accomplished without jeopardizing the health of anyone involved as related to COVID-19, or there are any restrictions in place due to COVID-19 that prevent compliance with these Standards; there are no other reasonable alternatives available to apply or adhere to these Standards, as implemented by Chief Probation Officer Cary Heck and approved by either the Chief Judge or the State Court Administrator; or the provider of services necessary to meet these standards are unable to provide such services:
1. FY20 Probation Standards 3.02, 4.35, 4.36, 4.41, 4.47, 4.54, 4.56, 5.04, and 5.11. A copy of these standards is attached to this order.
  2. Probation Standard 4:07, but only as to the ASUDS and ASUS-R and only in the manner approved by the State Court Administrator.
  3. Probation Standards that mandate assessments, but to the extent possible such assessments shall be conducted by telephone or other available methods approved by the State Court Administrator.
  4. Probation Standards that mandate screenings whose completion is dependent upon assessments that cannot be completed.
  5. Probation Standards that require in-person or face-to-face contact, signatures, initialing, or the provision of written documentation to or receipt from the individual being supervised, but to the extent reasonably possible, alternatives such as e-mail and telephone contact shall be utilized and documented. The Chief Judge authorizes Cary Heck, 2nd Judicial District Chief Probation Officer, and Cheryl Frenette, 2nd Judicial District Deputy Chief Probation Officer, to determine whether there are other means

reasonably available to facilitate the obtaining of signatures or initials, providing documents to clients, or receiving documents from clients, such as utilizing a reception office that is separated by a glass partition from the lobby of the probation office, provided that social distancing of at least six feet can be maintained by persons in each location from others in the same area at all times.

6. Probation Standards that mandate training if such training is not available.
  7. Probation Standards that require the development and/or review of a case plan.
  8. Probation Standards that require treatment, evaluation, drug or alcohol testing, or DNA testing where such services are not fully available.
  9. Probation Standards that require consultation with other persons or entities who are not reasonably available.
- B. In determining whether any of the Standards listed in Section A of this order cannot be applied or adhered to due to COVID-19 concerns, Chief Probation Officer Cary Heck or Deputy Chief Probation Officer Cheryl Frenette shall consider whether public safety would be compromised if a waiver occurs.
- C. 2nd Judicial District Probation Officers and Supervisors shall first confer with Chief Probation Officer Cary Heck, and if he is unavailable, Deputy Chief Probation Officer Cheryl Frenette, before taking any actions that involve the waiver of any of the Standards listed in Section A of this order.
- D. This order **does not waive** Probation Standards 4.20, 4.31, 4.32, 4.33, and 4.34, and a copy of these Standards is attached to this order.

The provisions of this order shall continue through May 15, 2020, unless otherwise modified or extended by the Chief Judge.

Dated this 13th day of April, 2020.

BY THE COURT:



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MICHAEL A. MARTINEZ

District Court Chief Judge

# Supreme Court of Colorado

2 East 14<sup>th</sup> Avenue  
Denver, CO 80203  
(720) 626-5460

NATHAN B. COATS  
CHIEF JUSTICE

## SUPREME COURT OF COLORADO

### OFFICE OF THE CHIEF JUSTICE

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#### Order Regarding COVID-19 and Operation of Colorado State Probation Departments

In light of the COVID-19 (coronavirus) pandemic and the continued spread of the virus throughout communities in Colorado, and in consideration of the obligation for probation department personnel to supervise individuals who have been sentenced to such supervision by the courts, the probation departments of this state can no longer continue normal operations and must, like our courts, operate on a temporary emergency basis.

Probation Standard 2.01 provides that “[a]dherence to the probation standards described herein is contingent upon the availability of adequate funding resources and adequate staffing levels.” Although this provides a measure of flexibility, the granting of broader discretion is necessary under the current circumstances. Therefore, effective immediately I hereby order that the chief judges of the 22 Colorado judicial districts are delegated temporary authority to waive the following FY20 Probation Standards and categories of Probation Standards as deemed necessary in order to reduce the spread of the coronavirus, while ensuring individuals sentenced to supervision continue to be supervised by the probation departments:

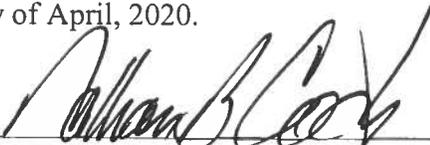
1. Probation Standards 3.02, 4.35, 4.36, 4.41, 4.47, 4.54, 4.56, 5.04, and 5.11
2. Probation Standard 4.07, but only as to the ASUDS and ASUS-R and only in the manner approved by the State Court Administrator
3. Probation Standards that mandate assessments, but to the extent reasonably possible such assessments shall be conducted via telephone or other available methods approved by the State Court Administrator
4. Probation Standards that mandate screenings whose completion is dependent upon assessments that cannot be completed
5. Probation Standards that require in-person or face-to-face contact, signatures, initialing, or the provision of written documentation to or receipt from the individual being supervised, but to the extent reasonably possible, alternatives such as email and telephone contact shall be utilized and documented
6. Probation Standards that mandate training if such training is unavailable
7. Probation Standards that require the development and/or review of a case plan
8. Probation Standards that require treatment, evaluation, drug or alcohol testing, or DNA testing where such services are not fully available

9. Probation Standards that require consultation with other persons or entities who are not reasonably available

Under no circumstances may a chief judge waive Probation Standards 4.20, 4.31, 4.32, 4.33 or 4.34. This Order shall continue through May 15, 2020. At that time, I will reassess the continued need for waiving Probation Standards.

In implementing this Order, it is my expectation that the chief judges of the 22 judicial districts will make every effort to avoid compromising community safety and ensure their probation departments provide an appropriate level of supervision for all individuals sentenced to supervision, as well as provide modified services to those individuals receiving presentence investigation services, if needed.

Done at Denver, Colorado this 9<sup>th</sup> day of April, 2020.

  
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Nathan B. Coats  
Chief Justice, Colorado Supreme Court