

<p>NINTH JUDICIAL DISTRICT, COLORADO Court Address: Garfield County Courthouse 109 Eighth St., Suite 104 Glenwood Springs, Colorado 81601</p> <p>Phone Number: 970-928-3065</p> <hr/> <p>ADMINISTRATIVE ORDER</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>The Honorable James B. Boyd</p>	<p>Administrative Order 20-05</p>
<p>ORDER UPDATED: OPERATIONS DURING COVID-19 PERIOD</p>	

This order supersedes Administrative Orders 20-03 regarding court operations during COVID-19 period. For convenience, each section below indicates whether or not the section contains modifications from Administrative Order 20-03.

The public health crisis of COVID-19 continues to exist. On July 24, 2020, the Chief Justice of the Colorado Supreme Court adopted an updated order regarding COVID-19 and court operations. It orders, “no person shall be summoned to assemble for jury service in a state court without the authorization of the Chief Judge of the particular judicial district, following his or her determination that the jury pool in question can be safely assembled consistent with applicable executive orders and health directives.” Many provisions of the Chief Justice’s pre-existing order of May 5, 2020 remain in force, including “with the understanding

that some judicial proceedings may require personal appearances, wherever reasonably feasible, judicial proceedings, regardless of their nature, should continue to be conducted remotely.” Except for some listed “essential functions”, the May 5 order restricts in-person proceedings to matters where in-person proceedings are “deemed necessary” in the discretion of the chief judge of the judicial district.

According to the Colorado Department of Public Health and Environment (CDPHE), through July 24, Garfield County has had 612 identified cases of COVID-19, a more than 100% increase since June 30; Pitkin County has had 153 identified cases, a nearly 60% increase since June 30; Rio Blanco County has had 6 identified cases, a 50% increase since June 30. Over the same period, the statewide increase in identified cases is about 33%.

All three counties in the 9th Judicial District obtained variances from CDPHE allowing some activities and rules broader than statewide orders. Garfield and Pitkin Counties have exceeded the permissible number of new cases allowed by their variances and are taking further action. Garfield County is preparing a mitigation plan to help CDPHE determine if the variance can remain in place. On

July 22, 2020, the City of Glenwood Springs adopted a mandatory mask zone to include outdoor areas in the downtown area. On July 24, 2020, the Pitkin County Board of Health tightened its pre-existing mask requirement by eliminating the 10-minute time threshold for wearing masks when talking outside within six feet of someone. The Board of Health also reduced the social gathering size from 50 to 10.

Statewide, the ongoing public health crisis continues to be repeatedly confirmed in many Colorado Governor Executive Orders, including Executive Order D 2020-138 about masks adopted July 16, 2020, Executive Order D 2020-127, Protect Our Neighbors, adopted July 9, 2020, Executive Order D 2020-125 extending the “disaster emergency” adopted July 6, 2020, and Executive Order D 2020-091, Safer At Home, adopted June 1, 2020.

The above state and local orders and data support the entry of this order.

REMOTE PROCEEDINGS (No change from Administrative Order 20-03)

Court proceedings, including hearings, trials and regularly-scheduled dockets, shall be conducted by remote technology, such as webex or telephone, to the greatest extent possible. Except as otherwise provided in this order, any

proceeding may go forward as directed by the presiding judge if the proceeding is conducted wholly by remote technology. Instructions for audio/visual appearances and hearings are set forth in Ninth Judicial District Administrative Order 20-02, which is posted on the Ninth District's website. Links to the District's "virtual courtrooms" are also posted on the website.

IN-PERSON PROCEEDINGS (No change from Administrative Order 20-03)

In-Person proceedings shall not be conducted except as provided in this order. The authorization here for in-person proceedings does not preclude the presiding judge from ordering remote proceedings unless in-person proceedings are the only reasonable way to perform those functions designated "essential" by the Chief Justice of the Colorado Supreme Court. The judicial officer presiding over a case shall have the authority to conduct in-person proceedings for the following:

Essential Functions as defined by the Chief Justice of the Colorado Supreme Court in his Updated Order Regarding COVID-19 and Operation of Colorado State Courts entered on May 5, 2020, or in any subsequent modifications to that order.

Criminal proceedings within the scope of C.R.Crim.P. 43(f)(2) if the defendant does not consent to interactive audio/visual proceedings or if the defendant is not available for audio/visual proceedings that meet the requirements of C.R.Crim.P. 43(f)(2).

In proceedings scheduled for virtual dockets or virtual courtrooms, the presiding judicial officer shall have the discretion to conduct an individual proceeding for a person who physically appears for the proceeding so long as the judicial officer reminds the person about the virtual courtroom and encourages or orders the person to appear virtually for his or her next court date.

Types of proceedings or individual hearings whose exceptional circumstances require personal appearances as determined or approved by the Chief Judge as authorized in the Chief Justice's order of May 5, 2020.

Even for matters where in-person proceedings are authorized, virtual or other electronic proceedings remain the preferred protocol and are encouraged. In-person appearances shall be managed as the exception, not the rule. All in-person hearings and appearances must comply with the safety protocols for persons in the courthouse set forth below.

CONTINUANCES FOR CRIMINAL DOCKETS (No change from
Administrative Order 20-03)

For criminal dockets, due to the large number of cases handled by the public defender, the prosecutor and public defender defense counsel may stipulate to a continuance to a specific future docket date and time without filing a motion in each case. A single document may be submitted by email to each court's division clerk stating the Defendant's name, the case number, and the agreed-upon date and time to which a continuance is proposed. The stipulation shall be submitted not less than two days prior to the docket. When such a stipulation is timely presented to the court, unless the presiding judge affirmatively denies a particular continuance at least one day prior to the docket, the presiding judicial officer shall not issue a warrant for failure to appear even if the stipulation has not been ruled upon at the time scheduled for appearance. The presiding judge shall have the authority to set a future date and time different than the one proposed in the stipulation and the authority to require an appearance at the next date without permission to continue the next date by stipulation. The court clerk shall enter a minute note in each affected case confirming the continuance. For cases not involving the public

defender, continuance requests shall be handled by motion filed in the case or as otherwise directed by the presiding judge.

SAFETY PROTOCOLS FOR PERSONS IN THE COURTROOM (Some sections modified as noted below)

Social Distancing (Modified): All persons shall maintain social distancing by keeping a distance of at least six feet from other persons. This includes hallways and waiting areas as well as courtrooms. Where seating locations are identified by markings or signs, all persons shall sit only in the designated locations. Presiding judges shall enforce this limit in their respective courtrooms. In their discretion, presiding judges may allow persons who reside in the same household to be within six feet of each other.

Gathering Size (Modified): As now permitted by statewide orders, court operations do not have a gathering size limit. Nevertheless, all court spaces shall follow the mandatory social distancing requirement set forth in this order. This includes hallways and waiting areas as well as courtrooms. The social distancing requirement will limit the number of persons who may be permitted in any

courtroom, the exact number depending on the size of the courtroom. Presiding judges shall enforce the spacing requirements in their respective courtrooms.

Masks (Modified): Members of the public are required to wear masks that cover the nose and mouth at all times in the courthouse. Members of the public are encouraged to bring their own masks. Masks will be offered to persons who arrive without a mask. Any person who declines to wear a mask does not have permission to remain in the courthouse, will not be provided any services and will not be considered present or be allowed to be heard in any court proceeding except to address the absence of a mask. The mask requirement does not apply to persons under age 10 and may be waived for persons who cannot wear a mask for medical reasons. When necessary for the fair administration of court proceedings, a presiding judge may authorize a stationary person (that is a person who is not moving from one place to another) to remove their mask when necessary for the court proceeding. For example, a presiding judge might determine it is necessary that masks be removed by a testifying witness, a prospective juror during voir dire,

a person to be identified, or a party, lawyer, judge or other person whose mask inappropriately impairs their ability to participate in the judicial proceeding.

Filings (No change from Administrative Order 20-03): As with remote proceedings, exhibits and other filings shall be electronically provided to the court and to the other parties prior to any hearing. For persons without attorneys and without access to electronic filing, exhibits and other filings shall be submitted by mail or as permitted through procedures adopted in the office of the Clerk of the Court for the relevant courthouse. The presiding judge may refuse to accept any documents or items physically tendered in open court and may continue any hearing until electronic filing is completed or other filing protocols are completed.

Gloves, Washing Hands, and Use of Sanitizer (No change from Administrative Order 20-03): Members of the public are strongly encouraged to wear gloves, to wash their hands and to use hand sanitizer as directed or guided by state and local health orders and guidelines.

Cleaning (No change from Administrative Order 20-03): Working with court staff, the presiding judge shall cause surfaces that will come within the

immediate reach of multiple individuals (witness stands and podiums, for example) to be sanitized between each person. Nothing in this order precludes a presiding judge from managing the courtroom and placing persons in multiple locations or non-traditional locations to reduce the frequency of persons sharing surfaces.

Other Instructions (No change from Administrative Order 20-03): Members of the public shall follow the directions of judicial officers, court security, administration, court staff and signs placed by the court or by the county in which the courthouse is located.

JURY TRIALS (Modified)

Jury trials are essential to the administration of justice. The suspension of jury trials since March 2020 has always been intended as a temporary suspension. It is proper to begin the resumption of jury trials in the 9th Judicial District but to do so with caution, with respect for the risks associated with the COVID-19 pandemic, and cognizant of the current local and state data and trends regarding COVID-19. Jury trials will be governed by a written plan adopted by the Chief Judge; the plan is currently being developed by a committee of stakeholders. The plan will be

implemented in phases to allow testing and refinement of the plan. The adoption and phased implementation of a written plan are the means by which the District can satisfy the Chief Justice’s order that a jury pool “can be safely assembled consistent with applicable executive orders and health directives.”

At least through August 2020, only one jury trial per courthouse shall be underway at any one time, and only trials that can be conducted with a six-person jury (plus any approved alternates) shall be approved. As required by the Chief Justice’s order, a jury cannot be summoned and a jury trial cannot proceed without the approval of the Chief Judge. Since more cases are in need of a jury trial than can safely go forward at this time, the determination of which trials can go forward will be determined by the Chief Judge in consultation with members of the Bench under guidelines or priorities, if any, in the written jury plan.

EVICCTIONS AND RULE 120 FORECLOSURE PROCEEDINGS

(Modified)

Nothing in this order authorizes any person to initiate or proceed with evictions or foreclosures in violation of the federal CARES Act or in violation of

the Colorado Governor's Executive Order D 2020-88 (or any extensions or amendments of 2020-88 and the prior executive orders it incorporates). Allegations that a particular eviction or foreclosure case has been initiated or is being prosecuted in violation of the CARES Act or applicable Executive Orders shall be addressed by the judge presiding over the particular case.

ENTRY INTO THE COURTHOUSE (Modified)

To all persons: Do not enter the courthouse if

you have been diagnosed with COVID-19 ("Novel Coronavirus") and you have not received a subsequent test confirming that you are currently virus-free;

you have been in direct contact with someone who has been diagnosed with COVID-19 within the past fourteen days;

you are experiencing fever of more than 100.4 degrees, cough, difficulty breathing or shortness of breath, muscle aches, sore throat, new loss of taste or smell, or chills; or

you have been in direct contact with someone who is experiencing the above symptoms.

If any of these four criteria apply, please call the clerk's office of your respective county to reschedule your court date or to request to appear electronically through

each judicial officer's virtual docket or to receive further instructions.

CRIMINAL ADVISEMENTS (No change from Administrative Order 20-03)

Criminal advisements shall be conducted by audio/video conference.

USE OF CLERK AND OTHER COURT SERVICES (No change from Administrative Order 20-03)

All are directed to seek assistance from the Court Clerk offices and other court staff by telephone whenever possible. When a personal appearance is necessary, to maintain a safer distance, you may be directed to confer from behind a line or from a specific location. All filings by attorneys shall be made electronically through ICCES for case types in the ICCES system. For self-represented filings, you may be directed to place the filings in a drop box at the Clerk's office. Depending on local circumstances, some clerk's offices may be closed to in-person service except for matters prearranged by phone.

The services listed below will be provided by telephone only.

SRLC, Self-Represented Litigant Coordinator

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FCF, Family Court Facilitator

Collections Investigator

PROBATION SERVICES (No change from Administrative Order 20-03)

All are directed to seek assistance from probation offices by telephone whenever possible. Probation clients shall be supervised in a modified manner as directed by the Chief probation Officer and probation supervisors.

This order does not change any trial settings. The judicial officers in the district will individually determine the status of all cases set for trial during this time period.

PRESIDING JUDGE ORDERS (No change from Administrative Order 20-03)

In individual cases, the presiding judge has the authority to enter orders to address issues specific to the needs of the case so long as those orders are not less restrictive than the mandatory procedures for all cases set forth in this order or in the Updated Order Regarding COVID-19 and Operation of Colorado State Courts entered on May 5, 2020, by the Chief Justice of the Colorado Supreme Court.

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UPDATES (No change from Administrative Order 20-03)

Circumstances have changed rapidly and may continue to do so. This order may be modified or updated frequently. All are encouraged to check regularly the 9th Judicial District homepage located on the website for the Colorado Judicial Branch (www.courts.state.co.us) for the latest information. To access this homepage, use the drop-down menu for “courts”, click on “courts by district”, and then click on “9th Judicial District.”

Done on July 28, 2020.

BY THE COURT



Chief Judge, 9th Judicial District