



**11TH JUDICIAL DISTRICT, STATE OF COLORADO
CHAFFEE, CUSTER, PARK and FREMONT COUNTIES.**

C.J.D. 20-03

**SECOND AMENDED CHIEF JUDGE DIRECTIVE REGARDING COURT
OPERATIONS DURING THE COVID-19 PANDEMIC**

In light of the public health risk posed by the Novel Corona Virus and COVID-19 and the advisories and orders from the Centers for Disease Control, the Colorado Department of Public Health and Environment, and local public health departments, recommending active steps to slow the spread of the disease and precautions to reduce the risk of exposure, as well as the expiration of the Governor's Stay-At-Home Order on April 26, 2020, and the Safer-At-Home phase the State of Colorado will be entering effective April 27, 2020, and considering Chief Justice Nathan Coats Updated Order Regarding COVID-19 and Operation of Colorado State Courts issued May 5, 2020, effective immediately the Courts of the 11th Judicial District will continue to operate with reduced staff and will continue to prioritize matters of immediate concern for public health and safety and will also incrementally increase operations in all docket types, to include not only remote proceedings, but also limited in-person proceedings.

Pursuant to the authority granted in Chief Justice Directive 95-01 and the directives found in the Order Regarding COVID-19 and Operation of Colorado State Courts, issued by Colorado Supreme Court Chief Justice Nathan B. Coats on March 16, 2020, March 20, 2020, April 16, 2020, and May 5, 2020 it is hereby ORDERED as follows:

1. Operations:

- a. **Hours and Filings.** All courts will be open Monday to Friday, excepting legal holidays. Clerk offices will be open for in person filings and questions from 8:00 a.m. until noon. Staff will be reduced as coordinated by the Clerks of Court and the Court Executive, with the approval of the Chief Judge. During operating hours, paper filings will be accepted by mail or in person at the clerk's window. There may

be significant delay in processing paper filings not related to public safety matters due to potential staffing level reductions. The court will accept electronic filings through ICCES for the case types in the ICCES system and by email in JV cases. Hearings not related to public safety may be scheduled for video or phone appearances at the discretion of the presiding Judge in compliance with District protocols.

After June 1, 2020, clerks offices will be open to the public during normal business hours.

- b. **Limitations on Entry.** Persons who meet any of the following criteria are prohibited from entering any courthouse and instead should call the court to reschedule their court date, request to appear by phone, or receive further instructions:
 - i. Anyone diagnosed with COVID-19 and that does not have written verification that the person has received a subsequent test confirming that person is currently virus-free;
 - ii. Anyone who has been in direct contact with someone who has been diagnosed with COVID-19 within the preceding fourteen days;
 - iii. Anyone experiencing a fever, cough, shortness of breath, other respiratory illness symptoms or symptoms of COVID-19 that have been identified by the CDC.

2. Mandatory Continuance and Limitations on Hearings prior to June 1, 2020.

- a. Except for all public safety matters listed in section (4) below, **ALL IN-PERSON** proceedings set **through May 29, 2020**, are either continued or will occur via remote means. Please **do not** appear at the courthouse. Any person who does appear at a courthouse for a hearing or appearance that is not a public safety matter shall be provided a paper by a member of the court security team and/or court staff containing instructions on how to contact the court. Please contact your attorney or the clerk of court to determine the status of your case.
- b. **Criminal Cases:** Proceedings in criminal cases will be held whenever practicable and will be held remotely whenever possible pursuant to Crim. P. Rule 43 (f).

- c. Non-criminal, non-public safety case types: Judicial officers, in their discretion and as judicial resources allow, may continue to conduct proceedings in all docket types, by remote means only, through May 29, 2020.

3. Hearings after June 1, 2020:

- a. By June 1, 2020, it is anticipated that most judicial employees will have returned to work. This will allow more cases and more case types to be heard.
- b. Criminal Cases: Proceedings in criminal cases will resume, to the extent possible, at full capacity. Criminal hearings will be held remotely whenever possible pursuant to Crim. P. Rule 43 (f). If a hearing can be held remotely pursuant to Rule 43(f) but the presiding judge believes there is good cause to hold the hearing in person, the presiding judge may allow an in person hearing. That said, there is a strong presumption against in person hearings if the hearing can be conducted remotely.
- c. Non-Criminal Cases: All case types may be heard. However, hearings may be limited or may be delayed in scheduling. This is due to 1) the possibility of a judicial employee testing positive for COVID-19 and the subsequent remedial measures that will need to take place 2) the back log of cases to be heard and 3) the fact that most hearings will be held remotely and remote hearings take more time than in person hearings.

Judicial officers must continue to conduct proceedings on all non-criminal case types remotely. Judicial officers may conduct in person proceedings only when it is not reasonably feasible to conduct the hearing remotely. Convenience of the parties or the judicial officer will not be a reason to hold in person hearings. The Chief Judge of the District must approve any request for an in person hearing. Even if an

in person hearing is approved, Judicial Officers will require remote appearances by any party, witness or observer whenever possible.

This discretion is subject to compliance with the parameters outlined in section 10. below. Parameters associated with in-person proceedings may be modified consistent with guidance received from state and local officials.

A proceeding may be conducted by remote means through telephone, video, WebEx, other electronic means, or any combination thereof, as determined to be appropriate by the judicial officer. All participants are responsible for learning what method is being used for their case and for becoming familiar with that method prior to their hearing.

4. Public Safety Matters: The courts will continue to conduct hearings on public safety matters. Judicial officers have discretion to determine whether public safety matters can occur in-person or remotely. In person hearings on public safety matters do not need prior approval from the Chief Judge. Public safety matters are **STRICTLY LIMITED** to the following:

- a. Petitions for temporary civil protection orders and permanent protection order hearings;
- b. Petitions for temporary emergency risk protection orders and hearings on emergency risk protection orders;
- c. Crim. P. Rule 5 advisement for incarcerated persons and the initial setting of bail;
- d. Revocation hearings on complaints to revoke probation involving an incarcerated defendant;
- e. Proceedings necessary to protect the constitutional rights of criminal defendants including bond related matters and plea agreements for incarcerated individuals;
- f. Detention hearings for juvenile delinquency cases;
- g. Shelter hearings in dependency and neglect cases or other emergency juvenile proceedings (e.g. emergency change of placement);

- h. Petitions for appointment of an emergency guardian and/or special conservator;
- i. Emergency mental health proceedings;
- j. Other proceedings deemed necessary to prevent a risk of imminent financial hardship or imminent risk to the health, safety or welfare of any individual or to the community at large (in consultation with the Chief Judge).

5. Jury Trial Continuances until July 6, 2020.

- a. **Jury Trials.** All jury trials set to commence before July 3, 2020, are hereby vacated and continued. (See Chief Justice Nathan Coats' Directive of May 5, 2020). All parties and counsel shall contact the appropriate court to reschedule. The courts may also initiate rescheduling.
- b. **Jury Calls.** All jury calls with a return date between today's date and July 3, 2020 shall be cancelled. (See Chief Justice Nathan Coats' Directive of May 5, 2020). For those jurors who have a jury summons for a date to appear commencing on or after July 6, 2020, please continue to monitor the Court's website for updates.
- c. **No Exemption.** The Chief Judge has requested input from all trial judges in the district regarding the feasibility of conducting any type of jury trial in any courtroom in the district. Due to current public health orders, the trial judges were unanimous in their opinion that a jury trial could not be conducted in their respective courtrooms.¹ Therefore the Chief Judge will not apply to the Chief Justice for an exemption to the prohibition on jury calls.

- 6. **Prohibition on Group Gatherings.** There shall be no gatherings of groups larger than ten (10) persons in any of the courthouses for any purpose. The 10 person prohibition applies distinctly to each courtroom and each hallway, reception area or lobby. (In other words, each area described above cannot have more than 10 people. If there are 10 people in the hallway and 5 in the courtroom, this does not violate the 10 person rule) The prohibition will be enforced by court staff, security staff and judicial officers.

¹ Memos from each trial judge regarding their specific courtroom are available upon request

7. **Social Distancing.** Social distancing of no less than six feet shall be maintained with respect to all in-person activities within the courthouses. Social distancing will be enforced by court staff, security staff and judicial officers.

8. **Masks and gloves.** The Chief Judge orders that all persons entering a courthouse (or, in the case of Custer County, the portion of the County building that is utilized by the Court) wear a protective mask that covers their mouth and nose but not their eyes. (See Governor Polis' Executive Order 2020-138 issued July 16, 2020). The Court encourages participants to bring their own mask if possible. The Court will endeavor to supply masks if possible. Gloves are encouraged but not mandated. The presiding judge may allow masks to be removed on a case by case basis and for good cause as long as all other safety measures are maintained and the removal does not countermand other public health orders. There is a strong presumption against mask removal.

9. **Self-Help Centers, Family Court Facilitator, Collections Investigator and Protective Proceedings Monitor:**
 - a. All self-help centers in the 11th Judicial District will operate on a limited basis and will operate remotely until further notice.
 - b. All court forms and instructions can be found at:
https://www.courts.state.co.us/Self_Help/Index.cfm.
 - c. The Family Court Facilitator will conduct all status conferences by telephone or through the video application WebEx.
 - d. All conferences with the Family Court Facilitator, Collections Investigator, Self-Represented Litigation Coordinator, and Protective Proceedings Monitor shall be conducted by telephone conference only pending further Order of the Chief Judge.

10. **Protocol for Any In-Person Hearing.**
 - e. All participants in an in-person proceeding shall maintain social distancing of at least six feet at all times.
 - f. Attorneys shall address the court from counsel tables and shall address witnesses from the lectern or counsel table as determined by the presiding judge.

- g. Attorneys shall not approach witnesses and all exhibits shall be filed electronically prior to any hearing. If there are confidentiality or constitutional concerns relating to compliance with this protocol, the proponent of the exhibit should contact the court's division clerk prior to the hearing for guidance on filing in sealed status.
- h. Unless an original of an exhibit is required (e.g. a physical object), duplicates of all exhibits must be available for independent use by each witness.
- i. Upon completion of testimony, unless a witness is a victim, witnesses are encouraged to immediately leave the courthouse.

11. Presiding Judge Orders. 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 Chief Justice's Orders set forth above.

12. Staffing Advisement. The courts of the 11th Judicial District are working with reduced staff in order to address the current community health situation. When staff do return, they will be faced with a backlog of cases to be processed. Consequently, responses to phone messages and emails may be delayed.

13. Probation Services. Probation Clients shall be supervised in a modified manner as directed by the Chief Probation Officer. Efforts will be made to provide services by telephone or other technology in much as possible

14. Public Access to hearings. Unless a hearing is closed (adoption, mental health etc...) the public and press have the right to attend all hearings. Remote observation will be utilized to the greatest extent possible. The phone number and/or hearing code will be provided to the public upon request.

15. F.E.D. Pursuant to Governor Polis' Executive Order 20-51, no F.E.D. filing will be accepted by the Courts through May 30, 2020.²

16. Effective Date and Modification of this Order. This Order is effective immediately upon the date and time entered below. This order amends and replaces C.J.D. 20-03. Circumstances continue to change, and this Order may be updated or modified frequently. All persons are encouraged to check regularly on the 11th Judicial District homepage which can be found on the website for the Colorado Judicial Branch at www.courts.state.co.us for the latest information.

² Unless it is alleged that a tenant poses an imminent and serious threat to another individual or causes significant damage to property.

Done in Salida, Colorado on May 12, 2020

Amended paragraph 8. July 20, 2020.

/s/ Patrick W. Murphy

Patrick W. Murphy, Chief Judge