

District Court, Weld County, State of Colorado Court Address: 901 9 th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley, CO 80632-2038	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: 2020 CV 01 Division 1
SECOND REVISED ADMINISTRATIVE ORDER NO. 2020-12	
SECOND REVISED TEMPORARY ORDER REGARDING WELD COUNTY WORK RELEASE PROGRAM OPERATIONS DUE TO COVID-19 CONCERNS	

On March 27, 2020, the undersigned chief judge issued Administrative Order 2020-12 to provide guidance and authority to Weld County Justice Services, which operates the work release and electronic home monitoring programs in Weld County, Colorado to take certain actions upon advice of a medical professional. The Court issued Amended Administrative Order 2020-12 on April 23, 2020, which is set to expire on May 31, 2020. The Court finds it is necessary to issue this Second Revised Administrative Order 2020-12, which will expire on September 1, 2020, unless otherwise modified, terminated, or extended by the Court.

This order is issued due to the continued public health risk posed by the novel coronavirus (“COVID-19”). The factual bases included in the March 27, 2020 version of Administrative Order 2020-12 will not be reiterated in this revised order but are incorporated in this revised order through this reference. It is important to include in this revised order the following information:

- As of March 26, 2020, there were a total of 1,430 COVID-19 cases confirmed in Colorado across 39 counties, there were 24 COVID-19-related deaths, and 184 hospitalizations according to the Colorado Department of Public Health and Environment (“CDPHE”) webpage. There were 107 confirmed COVID-19 cases in Weld County. The first positive COVID-19 case in Colorado occurred on March

5, 2020.

- On April 22, 2020 there were a total of 10,878 confirmed cases of COVID-19 in Colorado across 56 counties, there have been 508 deaths, and 2,123 persons hospitalized. There were 1,237 confirmed COVID-19 cases and 69 deaths in Weld County on April 22, 2020, both of which are the third highest number by county in the state.
- Based on information provided to the Court on April 23, 2020 by Mr. Doug Erler, director of Weld County Justice Services, there were 201 clients residing at the work release facility on March 6, 2020. Based on the floorplan of the facility, the maximum residents to maintain recommended social distancing is 68 (56 males and 12 females). On April 23, 2020, the number of clients in the facility is 39 (2 females and 37 males).
- Mr. Erler sent an email to the undersigned judge on May 22, 2020 and on that date there were 46 clients in the work release program and no clients were on furlough status.
- There are 13 new client intakes scheduled for May 2020 and 52 for June 2020. Mr. Erler anticipates the number of clients in the facility will exceed the maximum number of 68 by the middle of June 2020.
- Mr. Erler has been working with Dr. Wallace and the Weld County Attorney's Office and plans are in place to increase the capacity to 96 beds (78 males and 18 females).
- Mr. Erler informed the Court on April 23, 2020 that the Weld County Department of Public Health and Environment ("WCDPHE") provided voluntary COVID-19 tests to work release staff and clients on April 15, 2020. The tests were offered to both in-facility clients and those on electronic home monitoring. Other clients have been tested for COVID-19 outside of the tests offered by WCDPHE. A total of 11 clients and 2 staff members have tested positive for COVID-19, and one client was hospitalized. In addition, there were 6 test results that were deemed inconclusive and 4 of those persons have agreed to be retested.

- According to data posted on the CDPHE website, on May 27, 2020 there were 2,430 positive COVID-19 cases in Weld County and 128 COVID-19-related deaths.

It is imperative that active steps continue to be taken to slow the spread of COVID-19 and precautions be strictly followed to reduce exposure to COVID-19. Although the proactive measures that have been taken statewide since the middle of March 2020 have resulted in slowing the spread of COVID-19, this pandemic continues to threaten the health and well-being of the community. Mr. Erler continues to work closely with WCDPHE personnel to monitor and assess the health and welfare of clients and staff associated with the work release facility.

A county may provide for programs whereby a person sentenced to serve a county jail sentence for a conviction of a crime, nonpayment of a fine or forfeiture, or contempt of court may be released from confinement through an order of the court during necessary and reasonable hours for several purposes listed by statute. C.R.S. §§18-1.3-106(1)(a)(I)-(VII). These purposes include seeking work or working at his or her employment; conducting his or her own business, self-employment, or attending the needs of the family; attending an educational institution; obtaining medical treatment; serving home detention; and day reporting. *Id.* A prisoner who has been convicted of a crime of violence under C.R.S. §18-1.3-406(2), a sex offense as defined in C.R.S. §18-1.3 903(5) and C.R.S. §18-3-411, a crime involving domestic violence as defined in C.R.S. §18-6-800.3(1), or a class 1 misdemeanor in which a deadly weapon is used is ineligible for home detention (electronic home monitoring, or “EHM”). C.R.S. §18-1.3-106(11).

A victim of a VRA offense has the right to be heard at any court proceeding at which the defendant’s sentence is modified. C.R.S. §24-4.1-302.5(1)(d)(V). A “modification of sentence” occurs under the VRA whenever the court takes action to modify the length, terms, or conditions of the offender’s sentence pursuant to Crim.P. 35(a) or (b), a resentencing following a probation revocation, or a request for early termination of probation. C.R.S. §24-4.1-302(3.5). An “action taken by the court” to modify a sentence includes an order entered by the court modifying the sentence without conducting a hearing but does not include an order denying a motion to modify a sentence without a hearing. *Id.*

BASED ON THE FOREGOING AND THE FINDINGS MADE IN ADMINISTRATIVE ORDER 2020-12 ISSUED ON MARCH 27, 2020 AND REVISED ADMINISTRATIVE ORDER 2020-12 ON APRIL 23, 2020, IT IS HEREBY ORDERED:

- A. Although the current number of residents in the work release facility (46) is below the maximum number (68) that can reside in the facility while maintaining the minimum social distancing recommended by the CDC, CDPHE, and WCDPHE, as well as the increased number of beds to 96 as contemplated by Mr. Erler, it is necessary to issue this Second Revised Administrative Order 2020-12 to ensure measures can be taken to address emergency public health issues related to COVID-19 through September 1, 2020.
- B. When determining whether to address a sentence that includes work release, judicial officers should take an individualized approach to each case and consider such factors as the nature and severity of the offense, whether the conviction involves a VRA offense listed at C.R.S. §24-4.1-302(1), whether the provisions of C.R.S. §18-1-106(11) apply to the conviction, the remaining time to be served on the sentence(s), and any other factors relevant to public safety, the purposes of Colorado's criminal code with respect to sentencing set forth at C.R.S. §18-1-102.5, and any other matters deemed relevant by the sentencing court.
- C. This Court authorizes Mr. Erler and those acting under his direction to temporarily release a person on EHM to the person's home or another authorized residence, but not to the home of a victim of any VRA offense, based on specific recommendations from a medical provider that the person must self-quarantine and there is no ability to safely quarantine the person within the work release facility. The duration of EHM shall be limited to the time period recommended or ordered by the medical provider. Mr. Erler and work release staff shall impose restrictions to ensure the person remains confined within the residence at all times, except to seek medical care, as well as imposing any other conditions deemed necessary to ensure the safety of the

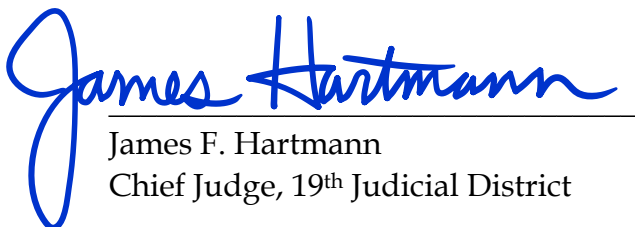
victim and public. This Court finds that the provisions of this Section C fall within the parameters of emergency “medical treatment” under C.R.S. §18-1.3-106(1)(a)(V), and is necessary to protect the health of the client, others who reside within the facility or are employed by work release program, and members of the public; therefore, EHM can be authorized under these very limited circumstances for the short duration of quarantine, after which the client is to be immediately returned to the work release facility to continue serving the sentence. Work release staff shall forthwith notify the sentencing court, the victim, and the District Attorney’s Office whenever a short-term medical furlough involves someone convicted of a VRA offense or any offense specified in C.R.S. §181.3-106(11). The sentencing court may consider the specific circumstances existing and issue orders that are consistent with or vary from this order.

- D. The provisions of Section C above do not prevent work release staff from returning a client to the facility or regressing a client to the Weld County Jail for any misconduct or violation of a work release rule. If a client who was placed on EHM for medical reasons is returned to the facility or regressed from the work release program for misconduct or a violation of the rules, work release personnel shall forthwith notify the sentencing court, the District Attorney’s Office, and the victim of a VRA offense of the actions taken by work release and the reasons for the regression or return to the facility.

The provisions of this order shall expire on September 1, 2020, unless Administrative Order 2020-12 is revised or extended by the Court through separate order.

Date: May 28, 2020.

BY THE COURT


James F. Hartmann
Chief Judge, 19th Judicial District