

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
HAMILTON, MERRICK, NANCE, BOONE AND POLK COUNTIES
AMENDED ADMINISTRATIVE ORDER**

In consideration of the current severe risk of the spread of the Coronavirus Disease 2019 (COVID-19) as indicated by the risk dial being at 3.8 out of 4 in the Central District Health Department's COVID-19 risk Dial and the lack of hospital beds within the local communities, this Court finds that changes in procedure and scheduling are necessary to protect the public, litigants and court personnel.

IT IS ORDERED, ADJUDGED, AND DECREED, that effective November 16, 2020, the following procedures shall be implemented in the above noted district courts:

I. **GERNEAL PRECAUTIONARY MEASURES**

- A. All persons are required to wear a mask or face covering completely covering and concealing their noses and mouths and such masks shall be worn at all times in the district courtrooms.
- B. No person shall be admitted into the courtroom if they have a temperature of 100 degrees or more or if they refuse to have their temperature taken.
- C. No more than 10 persons are allowed in the Hamilton, Merrick and Polk County District Courtrooms and no more than 7 people are allowed in the Boone and Nance County Courtrooms at any time including court personnel. The number of persons allowed in the courtroom may be limited or increased by permission of the court for a specific hearing upon good cause being shown.
- D. Parties are encouraged to utilize web-based conferencing systems or the telephone to conduct any nonevidentiary hearing. Counsel for the parties are responsible for making arrangements for conference calls or notifying the official court reporter, Julie Bellis, in advance of the hearing as to the method chosen.

II. **CIVIL CASES**

- A. All nonjury civil cases scheduled for evidentiary hearings shall proceed as scheduled either in person or by audio visual platform if agreed to by the parties or upon further order of the Court.

- B. All civil hearings not requiring testimony, all status and all civil pretrial hearings shall be conducted either telephonically or using a web-based system. The parties shall submit exhibits to the official court reporter, Julie Bellis, at juliebellis@hamilton.net no later than 24 hours before the hearing and shall serve the same upon the opposing party.

III. CRIMINAL CASES

- A. All defendants are excused from status hearings until further order of the court unless a plea agreement has been reached.
- B. Defense counsel are strongly encouraged to discuss with their clients either waiving arraignment or having their clients appear by a web-based hearing.
- C. By agreement of the parties, sentencings may be conducted remotely by a web-based hearing.
- D. All hearings for persons in custody not requiring the presentation of evidence shall by a web-based hearing.

IV. CRIMINAL JURY TRIALS

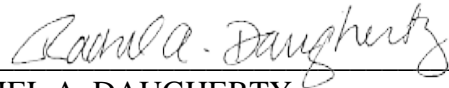
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that good cause exists due to the emergency conditions to continue all criminal jury trials that are scheduled for November and December 2020 to after January 4, 2021, or as may be further continued by further order of the Court. The Court finds that given the risk to jurors, court personnel, litigants and interpreters, the Court may not safely conduct jury trials at this time despite the best efforts of the court staff and the counties to provide a safe location for jury trials.

The Court enters this Order due to the Court's inability to safely call and retain an adequate cross-section of jurors, and the effect of following the rapidly evolving public health recommendations on the availability of parties, counsel, citizens accused, law enforcement officers, and court staff. The Court specifically finds that continuing these criminal jury trials outweighs the citizen accused's right to a speedy trial as well as the public's interest in the prompt disposition of these criminal cases. Accordingly, the period of delay resulting from the implementation of this Order is excluded for good cause, and the speedy trial "clock" in each criminal case is tolled for good cause until the next available jury trial date. See Neb. Rev. Stat. §29-1407(4)(f) (Reissue 2016); Neb. Const. Art. 1, Section 11.

Dated this 13th day of November, 2020.

IT IS SO ORDERED

BY THE COURT:

Handwritten signature of Rachel A. Daugherty in cursive script.

RACHEL A. DAUGHERTY
DISTRICT JUDGE