

District Court

NINTH JUDICIAL DISTRICT OF NEBRASKA

JOHN H. MARSH, JUDGE

RYAN C. CARSON, JUDGE

P.O. BOX 520

KEARNEY, NEBRASKA 68848

PHONE 308-236-1246

SHARON K. MAULER,
CLERK OF THE DISTRICT COURT

March 16, 2020

Dear Attorneys,

Attached is the Administrative Order of the Chief Justice of the Nebraska Supreme Court. As you are aware, a public health emergency has been declared. The Court is committed to protecting the health and welfare of our citizens, including court staff, the attorneys and their clients, witnesses, jurors, and others involved in the justice system. The Court must also continue to provide Nebraskans with equal access to the courts, equal ability to participate in court proceedings, and of course, to ensure that all parties are treated in a fair and just manner. In an effort to accommodate these goals, the Court has implemented the following temporary guidelines and procedures in both criminal and civil matters pending in District Court:

1. The Court will temporarily suspend the use of block/mass scheduling for final plea/pretrial hearings for the next forty-five (45) days, or until further notice. To avoid further delay, and if not previously continued, the deadline set for such hearings in the Progression Order will remain in place. To the extent the parties have reached a plea agreement, they are to contact the Court Bailiff and schedule the matter for a separate entry of plea hearing. To the extent the parties have not reached an agreement, defense counsel shall, to the extent possible, submit a Written Waiver of Final Plea/Pretrial hearing, to be filed no later than the date set for final plea/pretrial. The written waiver shall contain the necessary consent and waiver of the right to a physical appearance and comply with *Neb. Rev. Stat. § 29-4206*. The written waiver shall also contain confirmation that the defendant understands the matter will be set for trial and the defendant agrees to appear on the date and time set by the Court.
2. The Court strongly encourages counsel to continue to utilize Written Waivers and Pleas of Not Guilty for purposes of initial arraignments and/or written denials of probation/PRS revocation. To the extent a defendant does not wish to file a written waiver, please contact the Court Bailiff and set the matter for a separate arraignment or admit/deny hearing.
3. The Court is currently evaluating its sentencing schedule. In an effort to further avoid the concentration of individuals in the courtroom, the Court will again temporarily suspend the use of block scheduling. To the extent possible and if a defendant is currently released on bond, the parties are encouraged to consider a brief continuance of sentences previously scheduled. Otherwise, the Court will likely revise its current sentencing schedule and will send notice of a new date and time, if necessary.

4. In an effort to minimize exposure of individuals currently housed in the Buffalo County Jail, all criminal matters where the presence of the inmate is necessary will occur in Hearing Room A, to the extent possible. The Court may also use video conferencing technology if available.
5. All civil and criminal jury trials scheduled to commence in the next forty-five (45) days are continued pending further order of the Court. Other in-court hearings shall remain scheduled unless continued, on a case-by-case basis, by the Court. As required by the attached Administrative Order, the parties shall promptly notify one another and the Court if they have cause to believe that any such hearing cannot be held in a manner consistent with public health guidelines.
6. The Court strongly encourages counsel to participate by telephone for other hearings if possible, including but not limited to, civil pre-trial scheduling hearings, status hearings, temporary hearings in domestic matters, and other similar hearings. Counsel are to advise clients that their appearance is not necessary at such hearings. If an in-person appearance is required, all hearings will be set separately from other matters and will be conducted in the courtroom, rather than in chambers. Supporting affidavits or other evidence may be submitted to the Court Bailiff, with proof of service to the opposing party, prior to the scheduled hearing.

Thank you in advance for your efforts in maintaining safety and access to justice in our community. Should you have any questions, please contact the Clerk of the District Court.

Very Truly Yours,

John M. Marsh
Ryan C. Carson

District Judges

IN THE SUPREME COURT OF THE STATE OF NEBRASKA

IN RE NOVEL CORONAVIRUS
AND COVID-19 DISEASE

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ADMINISTRATIVE ORDER
OF THE CHIEF JUSTICE OF
THE NEBRASKA SUPREME COURT

The Court is carefully monitoring the evolving circumstances presented by the spread of the novel coronavirus and the COVID-19 disease. Pursuant to the authority vested in the Chief Justice of the Nebraska Supreme Court under Neb. Const. art. V, § 1 and Neb. Rev. Stat. § 25-2221, the following general administrative order regarding procedures of the judicial branch with respect to the novel Coronavirus and COVID-19 disease is required for the following reasons:

WHEREAS, a public health emergency has been declared in the United States, and guidance from public health officials suggests that one of the most effective ways to protect against the spread of this disease is to limit exposure, particularly to persons at higher risk of developing serious COVID-19 illness;

WHEREAS, conditions in the State of Nebraska at this time do not warrant limiting court or probation operations. However, this order may be updated as conditions change;

IT IS THEREFORE ORDERED, that persons who have an elevated risk of transmitting the novel coronavirus that causes COVID-19, includes anyone who:

- has traveled outside the United States within 14 days of this order, or lives or has close contact with someone who has;
- Persons who have been asked to self-quarantine by any health care provider or public official;
- Persons who have been diagnosed with, or have had contact with anyone who has been diagnosed with COVID-19; or,
- Persons who are presently exhibiting the symptoms of an infectious respiratory illness, which includes fever, cough, or shortness of breath.

IT IS FURTHER ORDERED that

1) any attorney or party shall promptly notify opposing counsel and the court if they reasonably suspect that a participant in any scheduled hearing, trial, conference, deposition, or other proceeding may come within any of the categories listed above;

2) any attorney or party shall notify the court and opposing counsel if any proceedings relating to the litigation of cases pending before the court would require travel or other actions contrary to guidance set forth by the Centers for Disease Control and Prevention or other foreign or domestic public health officials;

3) to the extent possible, counsel shall affirmatively inquire of their clients and witnesses whether they come within any of those categories;

4) no person who falls within any of those categories shall attend any hearing, trial, conference, deposition, or other proceeding without prior authorization from the court;

5) any probationer, problem solving court participant, or individual under presentence/predisposition investigation who falls within any of those categories shall notify the probation or supervision officer prior to having in-person contact and follow the officer's directives for the duration of the declared public health emergency and continue to comply with all conditions of probation or supervision unless otherwise directed.

IT IS FURTHER ORDERED that no court shall close unless or until the Chief Justice of the Nebraska Supreme Court has issued an order declaring a nonjudicial day. However, courts and probation offices shall devise and implement emergency preparedness plans to carry out mission essential functions.

Dated this 12th day of March, 2020.

BY THE COURT



Michael G. Heavican, Chief Justice