

On April 20, 2022, the Nebraska Supreme Court approved the following new rule of the Rules of the District Court of the Twelfth Judicial District, specifically “Rule 12-17. Emergency Modified Court Operations”:

**District 12**

**Rules of the District Court of the Twelfth Judicial District**

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**Rule 12-17. Emergency Modified Court Operations**

This Rule exists to provide direction to counsel, litigants, court staff, and other interested persons regarding: the maintenance in the District of open and safe courts in the event of an emergency; the mission essential functions of the court that are expected to be maintained during such emergency; the manner by which an emergency may be declared and terminated; the manner by which such declaration will be made known to court users and the public; and the nature and manner of such modified court operations.

A. Definitions

(1) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action.<sup>1</sup> This may include but is not limited to public health concerns, natural disasters, political unrest, weather events (i.e., blizzard, tornado, etc.), and unexpected absence of or injury to the judge (or such other event as determined by the presiding judge of the District).

(2) “Mission essential function” means those functions that need to be continuous or resumed within twelve (12) hours after an event and maintained for up to thirty (30) days or until normal operations can be resumed.<sup>2</sup>

(3) “Normal operations” means those functions of the court that occur in the absence of an emergency.

(4) “Justice stakeholders” are those persons or entities that have a particularized interest in the operation of the court system as either users thereof or participants therein.

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<sup>1</sup> Merriam-Webster

<sup>2</sup> Department of Homeland Security

(5) “Emergency Modified Court Operations” means those operations of the court system that are to remain in place and operational during an “emergency.”

B. Determination of Emergency

(1) Within a reasonable period of time, not to exceed seventy-two hours, of an event that may constitute an “emergency” as defined, the available District Court judges of the 12th Judicial District will consult and confer with one another.

(2) This consultation may be in person, by telephone, or remotely through technology such as ZOOM or other similar applications.

(3) The presiding judge of the District will consult with each available District Court judge to discuss the event and to determine whether that judge believes that the event constitutes an “emergency.”

(4) Based on the consensus of these consulted judges and her/his own determination, the presiding judge will make the final decision regarding the declaration of an “emergency” and when to return to normal court operations.

a. Should the event giving rise to the consultation be localized to one County or courthouse within the District, then the declaration of “emergency” determination shall be at the discretion of the District Judge that regularly sits in that County and if that judge is unavailable then by the presiding judge of the District.

(5) The District Court judges may, but are not obligated to, invite other interested justice stakeholders into this consultative process to receive input from them regarding whether the event constitutes an “emergency.”

a. In all cases, the decision as to whether an “emergency” shall be declared and all orders attendant thereto shall be within the sole and exclusive discretion of the District Court judges and the presiding judge of the District.

b. It will be the duty of the presiding judge of the District Court to coordinate and facilitate communications with the stakeholders that he or she deems necessary to plan and implement emergency modified court procedures.

(6) Should the event giving rise to the consultation affect the operations of the various County Courts within the District, then the presiding District Court judge will contact and

consult with her/his counterpart County Court presiding judge. In consultation therewith, the two presiding judges may call for a joint consultation of all available County and District Court judges within the District.

a. To the extent possible, the County and District Court judges shall reach a consensus regarding such declaration of “emergency.”

b. This consultation may also, but not be required to, include such justice stakeholders as the presiding judges determine should be included.

c. Should a determination of an “emergency” be decided to be declared, then the presiding judges of the courts should both issue such declaration.

C. Justice stakeholders shall include, but not be limited to:

(1) The judges representing the County and District Courts;

(2) The Clerk of the District Court;

(3) The Clerk magistrate;

(4) The bailiff;

(5) The Administrative Office of the Courts;

(6) The Chief Probation Officer;

(7) The County Attorney;

(8) The Public Defender;

(9) County Commissioners;

(10) Sheriff;

(11) Jail administrator;

(12) Facility manager;

(13) President of local Bar Association;

(14) Public health officer;

(15) Emergency Management coordinator; and

(16) IT support staff.

D. Mission essential functions of the District Court include, but are not limited to:

(1) Arraignments of persons in custody;

(2) Bond reviews of persons in custody;

(3) Appointment of counsel in criminal cases;

(4) Protection order cases;

(5) Jury trials;

(6) Acceptance and processing of new cases and/or pleadings;

(7) Receipt and processing of arrest warrants;

(8) Receipt and processing of search warrants;

(9) Receipt, deposit, and accounting for money paid into the court;

(10) Ex parte temporary orders in domestic relations matters;

(11) Appeals;

(12) Habeas petitions;

(13) Bench trials; and

(14) Any other matter as determined by the Presiding Judge.

E. Dissemination

(1) In the event that a determination to declare an “emergency” has been made and the court has determined to enter Emergency Modified Court Operations, then such declaration of Emergency Modified Court Operations and the subsequent return to normal court operations shall be made known to the court users and public.

(2) Such declarations will be publicly disseminated through the use of local media such as newspaper and radio outlets, as well as through appropriate social media avenues such as the Nebraska Supreme Court website, other local websites, Twitter, Facebook, etc.

(3) Court users will be notified directly through dissemination of relevant orders electronically, and/or by mail, public notification as described above as well as public display at the effected courthouses.

#### F. Resulting Action

(1) In the event that an “emergency” is declared under this Rule, then the affected Court(s) will begin to operate pursuant to the applicable Modified Court Operations Plan.

(2) Such Plans will be electronically disseminated to all known court users effected by the emergency. These Plans will also be distributed to local media outlets to include radio, television, and newspaper reporting services. These Plans will be posted on all available social media platforms to include Facebook and any applicable websites. These Plans will also be publicly posted at or near the entry door to the affected courthouse(s).

#### G. Administrative Orders

(1) As needed, the presiding District Court judge or the senior District Court judge of the affected courthouse(s) may enter Administrative Orders outlining the Modified Court Operations Plan and/or any other such Orders as she/he deems necessary to address the specific needs of a particular courthouse.

(2) Such Administrative Orders will be publicly disseminated as described above.

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