

***Emergency
Preparedness
Plan
for the
Trial Courts***

Nebraska Administrative
Office of the Courts & Probation

March 2020



1.0 Executive Summary

This document was created at the direction of the Nebraska Supreme Court and applies to all Nebraska State Courts and court offices.

The mission of the Nebraska Judicial Branch is to ensure the public has equal access to justice. To the best of our ability, the Nebraska Judicial Branch must continue to provide Nebraskans with equal access to the courts, equal ability to participate in court proceedings, and must ensure all parties are treated in a fair and just manner.

The intent of this document to provide guidance in the event of a state of emergency and is to be used in conjunction with a local Continuity of Operations Plan (COOP).

1.1 Purpose

This EMERGENCY PREPAREDNESS PLAN (EPP) establishes guidance to ensure the execution of the **mission essential functions** of the courts, in the event that an emergency in the state/nation threatens or incapacitates operations, and/or the relocation of selected personnel and functions to an **alternate facility** is required. Specifically, this plan is designed to:

- Ensure that the courts are prepared to respond to emergencies, recover from them, and mitigate against operational impacts.
- Ensure that the courts are prepared to provide critical services in an environment that is threatened, diminished, or incapacitated.
- Ensure the continued operation and function of court services as directed by the State Court Administrator or Presiding Judge.

The plan encompasses a combination of decisions and guidance as provided by the Administrative Office of the Courts and Probation (AOCP) and **requires** additional decisions, documents and tasks completed at the local level.

1.2 Applicability and Scope

This document is applicable to all courts and covers all individuals who directly work for the Nebraska Judicial Branch; who may not work for the Nebraska Judicial Branch, but who support the trial courts; and who conduct business with the trial

courts.

Support from AOCPC and local governments will be coordinated as necessary and provide direction in the event execution of the plan as needed.

2.0 Emergency Preparedness Plan (EPP) Implementation (Concept of Operations)

Emergencies, or potential emergencies, may affect the ability of courts to perform their mission essential functions from any or all of its primary offices. The procedures included in the following sections are intended to help ensure implementation of the plan goes forward as smoothly as possible and critical decisions and activities are not overlooked because of confusing or stressful events.

The procedures address who is responsible for specific decisions and actions at different points in the implementation process. In the event of an emergency, the implementation process should be followed as closely as possible. Flexibility is necessary, though, given some emergencies come with little or no warning and may require some procedures to be abbreviated or otherwise modified.

See [Nebraska Pandemic Bench Book](#) for additional resources to assist the court with preparing to address the issues that arise when a pandemic or other public health emergency impacts the ability to hold court. The bench book will provide judges with practical suggestions and legal authorities to assist courts with keeping the courts open. It also serves as a reference for the legal questions that may arise during public health threats and explains the role of the courts during such events.

3.0 Decision Process

Only the Chief Justice of the Nebraska Supreme Court has the authority to close a court by issuing an order declaring a nonjudicial day. [Neb. Rev. Stat. § 25-2221](#). The Chief Justice has broad powers to act under emergency conditions. [Neb. Const. Art. V, Sec. 1](#); [Neb. Ct. R. § 1-105](#).

A judge does not have the authority to “close the court.” However, a judge does have the authority, for example, to implement as needed: the adjusting of staff schedules, reducing in-person proceedings as much as possible; increased use of technology; allowing staff to telecommute; instructing attorneys and litigants about safety precautions; and adjusting the docketing of cases.

The judge must immediately consult with the State Court Administrator prior to making any adjustment to court operations that would interrupt or suspend any mission essential functions.

3.1 Planning Assumptions

To the best of our ability, the courts must continue to provide Nebraskans with equal access to the courts, equal ability to participate in court proceedings, and must ensure all parties are treated in a fair and just manner.

Disruptions, or potential disruptions, may affect the ability of the court to perform mission essential functions from any or all primary facilities included in the plan. Each court's COOP should address the basic response to any disaster or emergency situations. Given the unique challenges posed by an epidemic/pandemic, the information provided in this plan is not exclusive, but designed to enhance a court's current emergency protocol.

For example, in the first 90-days of EPP activation, each court should have the capacity to:

- Perform all mission essential functions as defined in each court's COOP; and
- Address all emergency matters and cases generated by issues associated with quarantines, isolation, civil liberty challenges, and other public health-related cases.

3.2 Emergency Preparedness Plan (EPP) Phases

Phase I: Activation

Phase II: Transition to Mission Essential Functions and/or
Alternate Site Operations

Phase III: Recovery and Reconstitution

4.0 PHASE I – Activation

Notification of activation may occur at the federal, state or local level depending on the extent of the emergency, but are implemented at the direction of the Chief Justice. Once notification of activation has occurred, a court COOP should be referenced and should provide set procedures for the formal emergency notification to employees through a system or variety of systems that an incident may occur or has occurred. The alert and notification system should also provide response directions to employees and external stakeholders regarding acquisition of future information. The systems may

include, but are not limited to, an organization's emergency telephone notification system; public announcement system; broadcast email; automated telephone messaging; call trees; in person contacts; or use of contracted alert and notification services.

A court COOP should include notifying the State Court Administrator upon activation of the plan.

5.0 PHASE II – Transition to Mission Essential Functions and/or Alternate Site Operations

This section provides direction and guidance for executing an EPP once notification has been given, including reviewing, updating or developing a plan when mission essential functions are identified, order of succession is determined, delegation of authority is established, alternate facilities are identified, a communication plan is developed, and staffing issues are addressed.

5.1 Mission Essential Functions

During the emergency, courts may not have the resources to maintain normal operations. In these situations, the court will need to restrict its activities to those functions deemed mission essential to performing the court's mission (e.g., statutorily mandated, vital to the court's mission, critical to maintain the safety of an individual or the public, and/or necessary to the performance of other departments or agency functions).

While mission essential functions may vary from court to court, several mission critical functions are likely to be common to all courts. These may include, but are not limited to:

- Conducting arraignments, including bond reviews
- Hearing juvenile dependency and delinquency cases
- Issuing restraining orders and protective orders
- Assisting litigants with court filings and processing paperwork and requests
- Accepting case filings and payments from litigants
- Managing court calendars, including criminal, civil, family law, probate, small claims, traffic and juvenile calendars
- Summoning jurors for selection and empanelling juries for civil and criminal cases

- Hearing criminal and civil cases
- Processing traffic citations
- Processing small claims filings

5.2 Order of Succession

Courts must establish a seamless transfer of leadership and decision-making authority at the local level for the period of the EPP activation. This includes, identifying the chain of command for court decisions including in the event the judge is unavailable or unable to make decisions.

5.3 Delegations of Authority

Courts must establish successive lines of administrative approval and authority for the period of EPP activation. This includes identifying the chain of command for administrative approval, including when a judge or the clerk magistrate is unavailable or unable to make administrative decisions.

5.4 Alternate Facilities

Courts must identify pre-screened and pre-approved alternate facilities to be used in the event the primary facility is unavailable for an extended period of time. Where necessary, memoranda of understanding should be executed with the alternate site managers and updated annually. This includes:

- Identifying an alternate location or operational strategy, which may include work from home in the event the court is unavailable or uninhabitable.
- Considering what resources may be necessary (e.g., laptop, Internet, VPN capability, WebEX, records).
- Creating an inventory of Records, Databases, and Information Systems to ensure they are available and accessible to support mission essential functions if some or all staff is working from alternate facilities. This includes creating a plan to ensure confidential files not already included in electronic files are secure and protected.

5.5 Communications

Courts must develop procedures to gather, verify, and disseminate information to decision- makers, all personnel, law enforcement, external stakeholders, and the public. This includes:

- Creating a resource catalog that would serve as a notification listing of necessary stakeholders.

- Identifying a local spokesperson and, ideally, designate at least three additional staff to succeed to the position in the event that the primary spokesperson is unable to perform this function.
- Ensuring that each designated person is fully trained to assume this responsibility.
- Creating signage, reply emails, and phone messages appropriately informing the public and other stakeholders of court operational status.

5.6 Human Resources

During an emergency, the AOCP will provide continued guidance and direction related to the personnel policies, including providing direction as it relates to court staff not directly involved with emergency response teams or operations particularly at an alternate facility. As it relates to personnel, courts should be considering:

- Estimating the impact of an emergency on the court’s workforce.
- Designating and training personnel to assume additional or alternate responsibilities to mitigate the effects of staff absenteeism during an emergency.
- Identifying multiple resources for remedying staff shortages and crisis management.
- Reviewing and taking into consideration the Personnel Policies that will provide guidance of AOCP expectations, including implementation of the “work from home” option, which requires utilization of the *Nebraska Judicial Branch Employee Telecommuting* agreement. (See attached.)

5.7 Strategies to Limit Personal Contact and Encourage Good Hygiene

During an epidemic/pandemic, court facilities should remain intact, but routine business practices should be altered to limit personal contact. There are several options available to limit personal contact such as allowing staff to work from home, staggering shifts and using video conferencing to conduct business.

Some hygiene and social distancing interventions also include:

- No handshaking policy

- Defer large meetings
- Provide and encourage hand sanitization at entrance
- Lunch at desk rather than in lunch room
- Disinfect high touch surfaces regularly and between users
- Limit food handling and sharing food in the workplace
- Assess staff travel
- Wash hands often with soap and water for at least 20 seconds (If no soap, then use an alcohol-based hand sanitizer)
- Avoid touch your mouth, nose or eyes with unwashed hands
- Cover your nose and mouth with a tissue when you cough or sneeze and then throw the tissue in the trash

Considerations for limiting juror exposure include:

- Asking jurors to report later or on a staggered schedule
- Having jurors report directly to the courtroom
- Avoid having the jurors pass exhibits
- Having hand sanitizer and other protective factors available

Considerations for managing a reduction in jury pool include:

- Reducing the number of jury trials scheduled by postponing trials when possible
- Increasing the number of juror summoned
- Impaneling more jurors to avoid having to adjourn or a mistrial
- Reviewing/developing a policy for
 - Excusing a sick juror
 - Excusing a juror whose family member is sick
 - Identifying and excusing vulnerable populations
 - Who has the authority to excuse, the criteria for excusals and what type of documentation is necessary
 - What happens when a juror fails to appear for jury duty

Also see [Nebraska Department of Health and Human Services](#) and [Centers for Disease Control and Prevention](#) for suggestions on the prevention and treatment of coronavirus.

5.8 Devolution

The court should have a plan in place ensuring the capability exists to transfer authority and responsibility for mission essential functions from a court to another court or at an alternate facility to sustain that court's operational capability for an extended period if the primary court and/or personnel are unavailable or incapacitated.

6.0 PHASE III – Recovery and Reconstitution

Once any emergency conditions abate, the Chief Justice will rescind as appropriate any orders or rules imposed. In those circumstances when there were no orders or rules imposed by the Chief Justice, a judge may lift or relax the court's EPP as appropriate.

Recovery from an epidemic/pandemic begins when a court determines that it has adequate staff and resources to resume normal business functions. Once normal operations resume, the impact of the epidemic/pandemic on court operations, staff, and other stakeholders should be assessed and an evaluation of the court's response should be drafted. Such evaluation can assist courts in updating their COOPs as well as other emergency response plans, as appropriate.

Once the court resumes normal business functions, the court needs to notify the State Court Administrator in addition to the public and other stakeholders.

ATTACHMENTS

Constitutional and Statutory Authority for Emergency Preparedness

Personnel Policies Related to Emergency Preparedness Plan

Nebraska Judicial Branch Employee Telecommuting Agreement

Information Worksheets to be Completed and Returned to AOC

Corey R. Steel
State Court Administrator



Deborah A. Minardi
State Probation Administrator

PERSONNEL POLICIES RELATED TO EMERGENCY PREPARENESS PLANNING

NOTE: All forms of leave require preapproval as directed in policy.

1) Leave Policies Potentially Relevant in Case of Pandemic

- a) *Sick Leave*: For employees who are unable to perform their work duties due to illness, who have been medically directed to quarantine, or whose presence is required to provide medically related care for an immediate family member (spouse, parent, child).
- b) *Vacation Leave*: For employees that are not performing their work duties, who are self-quarantining, are not ill, nor are they tending to the medical needs of immediate family members.
- c) *FMLA Leave*: Up to 480 hours unpaid (unless used concurrently with paid leave) in a one-year period for a serious condition (requiring at least three days' absence and ongoing care by a medical provider—or several other qualifying criteria).
- d) *Catastrophic Leave*: For employees or employee family members suffering from a life-threatening illness resulting in an absence of at least 30. Provisional employees do not qualify and all earned leave must be exhausted.
- e) *Official Leave of Absence*: Requires direct approval of the State Court or State Probation Administrator. Official Leaves of Absence are unpaid and per state rules —based on IRS tax requirements—employee will lose insurance after 14 days absence.
- f) *Ready to Work Status (RTW)*: Under the “Office Closing” policy, if an employee’s work site is closed due to weather or another emergency situation, the AOCB may place the employee on RTW status with pay.
- g) *Administratively Approved Paid Leave (AA)*: Under the “Office Closing” policy, if the weather is so severe that most local businesses are closed, an employee’s absence may be excused and compensated upon approval of the Court Administrator.

2) Other Potentially Relevant Policies/Considerations

- a) *Telecommuting*: Telecommuting (working from home) is a form of alternative worksite or alternative work location. Telecommuting would allow staff to perform duties remotely.
- b) *Remote Work*: If full telework options are not available, meaningful and productive remote work may be an option, such as email communications, project work, policy & procedures work, relevant training, etc.
- c) *ADA Accommodations*: Employee who are “disabled” due to symptoms of a pandemic illness would have a right to “reasonable accommodation” to allow them to perform the essential functions of their job.
- d) *Reassigning Locations of Staff*: The NSC Personnel Rules do not place restrictions on where staff can be assigned, either permanently or temporarily, to meet operational needs.

Corey R. Steel
State Court Administrator



Deborah A. Minardi
State Probation Administrator

Nebraska Judicial Branch Employee Telecommuting Agreement

Employment Relationship

Any employee of the Nebraska Judicial Branch working as a telecommuter must adhere to this Telecommuting Agreement.

This Telecommuting Agreement benefits the Nebraska Judicial Branch as determined by the Administrative Office of the Courts and Probation (AOCP) and is effective as long as telecommuting is deemed an acceptable option for employees in meeting the needs of those served by the Judicial Branch. Accordingly, the Telecommuting Agreement can be altered, revoked or terminated by the Court Administrator, Probation Administrator, or their designee for any reason.

Employees are subject to all Nebraska Supreme Court policies, procedures, rules and regulations whether completing work tasks at home, in a designated office, or at an out-of-office location.

General Availability

General office hours are considered 8:00 a.m. to 5:00 p.m., Monday through Friday, officially declared holidays excluded. The Judicial Branch workweek is considered to be 8 a.m. Friday morning through 7:59 a.m. the following Friday. For full-time employees, actual work hours plus authorized leave must equal a minimum of 40 hours per workweek. For part-time employees, actual work hours plus authorized leave must equal a minimum of the total authorized hours for their position per workweek. Time is to be recorded per established policies and procedures and on an official Judicial Branch Timesheet.

Employees will be available for on-call hours or to address emergencies outside of normal work hours.

Employees shall monitor email continuously during normal work hours and, likewise, be available by telephone or cellphone, notwithstanding scheduled vacation or other prearranged leave days. Authorized leave is scheduled in accordance with existing leave policy and procedures.

Designated Workspace

Employees shall designate a specific area of his/her home, equipped with internet access, in which he/she will perform work when not working in the field. Designated work areas utilized for telecommuting shall be safe and ensure confidentiality of all matters. By signing this form employees attest that their designated workspace conforms to these requirements.

Employees will be covered by Workers' Compensation for job-related injuries that occur in the course and scope of employment while telecommuting. Employees must report job-related injuries to his/her supervisor as soon as possible and seek treatment or medical care. In the event of an injury, each employee agrees representatives of the AOCP are allowed immediate access to the home workspace following the report of an injury. Worker's Compensation will not apply to non-job related injuries that might occur in or outside the home.

Each employee is responsible for all personal equipment, supplies and furniture used in the home workspace.

Maintenance, repair or replacement of these items are at the employee's expense. The AOCPP assumes no responsibility for any wear to, damage to, or loss of personal property. The AOCPP assumes no responsibility for the cost of, loss of or disruptions to internet service.

AOCPP Issued Property

AOCPP resources are to be used for official business unless otherwise provided in policy. Employees are responsible for ensuring all items are properly used and may be responsible for any damage to, or loss of, AOCPP property. AOCPP property shall not be used by anyone other than the employee.

If the telecommuting agreement is terminated, any AOCPP property provided in order to accomplish telecommuting shall be immediately returned.

Confidentiality

Employees shall familiarize themselves with and follow the branch [Information Systems and Security Policy](#).

Employees agree to take reasonable steps to protect any property from loss, theft, damage or misuse. This includes maintaining data security and record confidentiality. Hard copy files will be stored in a secure location when outside the employee's direct control. Electronic access will be maintained through appropriate passwords, PIN numbers and software security. All HIPAA and other compliance policies and procedures will be strictly followed. Employees shall not duplicate documents, nor store any information on any equipment other than AOCPP provided property. Employees will comply with the licensing agreements for use of all software owned and utilized by the AOCPP.

Communication

Employees agree to stay current on all work-group events and facilitate communication with all internal and external stakeholders as necessary or required. Employees agree to keep management staff informed at a minimum of once weekly of progress on work assignments and report immediately regarding any problems encountered while telecommuting. Employees will keep a record of all daily activities in his/her Outlook calendar. Direct supervisors shall have detail level permission to view the employee's calendar.

Signed: _____ Date: _____
Employee

Approved: _____ Date: _____
Supervisor

3/17/2020

Constitutional and Statutory Authority for Emergency Preparedness

Constitutional Provisions

[Art. V, Sec. 1](#)
[Art. V, Sec. 8](#)
[Art. V, Sec. 12](#)
[Art. V, Sec. 23](#)
[Art. V, Sec. 27](#)

Supreme Court Administrative Authority

[Art. V, Sec. 1](#)
[Neb. Rev. Stat. § 25-2221](#)
[Neb. Ct. R. § 1-105](#)

Jurisdiction

[Neb. Rev. Stat. § 24-302](#)
[Neb. Rev. Stat. § 24-517](#)

District/County/Juvenile Court Interchange

[Neb. Rev. Stat. § 24-230](#)
[Neb. Rev. Stat. § 24-303](#)
[Neb. Rev. Stat. § 24-304](#)
[Neb. Rev. Stat. § 24-312](#)
[Neb. Rev. Stat. § 24-516](#)
[Neb. Rev. Stat. § 43-2,125](#)

Hearings by Telephone/Videoconference

[Neb. Rev. Stat. § 24-303](#)

Court Facilities

[Neb. Rev. Stat. § 24-515](#)

Change of Venue

[Neb. Rev. Stat. § 25-410](#)
[Neb. Rev. Stat. § 25-411](#)
[Neb. Rev. Stat. § 25-412](#)
[Neb. Rev. Stat. § 25-412.01](#)
[Neb. Rev. Stat. § 25-412.02](#)
[Neb. Rev. Stat. § 25-412.03](#)
[Neb. Rev. Stat. § 25-412.04](#)

Judicial Absences

[Neb. Rev. Stat. § 24-305](#)
[Neb. Rev. Stat. § 24-306](#)
[Neb. Rev. Stat. § 24-307](#)
[Neb. Rev. Stat. § 24-308](#)
[Neb. Rev. Stat. § 24-309](#)
[Neb. Rev. Stat. § 24-310](#)

Clerks

[Neb. Rev. Stat. § 24-337.01](#)
[Neb. Rev. Stat. § 24-401](#)
[Neb. Rev. Stat. § 24-402](#)
[Neb. Rev. Stat. § 25-1144.01](#)
[Neb. Rev. Stat. § 25-1301](#)
[Neb. Rev. Stat. § 25-1912](#)
[Neb. Rev. Stat. § 25-2729](#)
[Neb. Rev. Stat. § 29-1207](#)

Clerk Magistrates

[Neb. Rev. Stat. § 24-507](#)
[Neb. Rev. Stat. § 24-508](#)
[Neb. Rev. Stat. § 24-519](#)
[Neb. Rev. Stat. § 24-520](#)

Miscellaneous

[Neb. Rev. Stat. § 24-501](#)
[Neb. Rev. Stat. § 24-734](#)

RESOURCES USED TO CREATE EPP

Continuity of Court Operations: Steps for COOP Planning, National Center for State Courts, September 2007.

Court Staff Expectations About Pandemics, Institute for Court Management: Court Executive Development Program 2007-2008 Phase III project, February 14, 2008.

Epidemics and the California Courts, Judicial Council of California, Administrative Office of the Courts, October 2006.

Nebraska Pandemic Bench Book, Chief Justice Heavican Pandemic Bench Book Task Force, 2018.

Pandemic Influenza Preparedness and Resource Planning: Guidelines for Community Corrections, American Probation and Parole Association, August 2009.

Pre-emptive low cost social distancing and enhanced hygiene implemented before local COVID-19 transmission could decrease the number of severity of cases, Dalton CB, Corbett SJ, Katerlaris AL,

Preparing for a Pandemic: An Emergency Response Benchbook and Operational Guidebook for State Court Judges and Administrators, National Center for State Courts, 2016.