

## **ADMINISTRATIVE ORDER 20-9**

### **RESPONSE TO COVID-19 EFFECTIVE DECEMBER 14, 2020**

By Order of the Chief Justice of the North Carolina Supreme Court, effective Monday, December 14, 2020, Superior Court and District Court Proceedings in the 24<sup>th</sup> Judicial District comprised of Watauga, Avery, Mitchell, Yancey and Madison counties, with limited exceptions, are suspended for a period of at least 30 days.

The emergency directive of the Chief Justice does not prohibit a judge or other judicial officer from exercising in chambers or *ex parte* jurisdiction conferred by law upon that judge or judicial officer, as provided by law.

Although Court offices in the 24<sup>th</sup> Judicial District will remain open for the transaction of business, unless you are required to appear in person to conduct your courthouse business, attorneys and members of the public are strongly encouraged to use email and the telephone to communicate with courthouse staff and to make appointments. In addition, attorneys and litigants are encouraged to submit filings by mail as documents delivered by U.S. mail are deemed timely filed if received within five business days of the due date.

Online Court services continue to be available for handling some court business, including citation services, paying your ticket, court payments, and signing up for court date notifications and reminders.

As used herein, the initial 30 day period under the emergency directive began on December 14, 2020.

**EXCEPT AS SPECIFICALLY MODIFIED HEREIN ALL PREVIOUS ADMINISTRATIVE ORDERS REMAIN IN FULL FORCE AND EFFECT AND THIS ORDER SHALL REMAIN IN EFFECT THROUGHOUT ANY SUBSEQUENT EXTENSIONS OF THE CHIEF JUSTICE'S DECEMBER 14, 2020 EMERGENCY DIRECTIVE AND IS SUBJECT TO IMMEDIATE MODIFICATION AS FUTURE CONDITIONS WARRANT.**

#### **CLERK OF SUPERIOR COURT**

- The Clerk's office shall continue to maintain normal office hours to accept filings, until further notice. The Clerk of Superior Court in each county may in the Clerk's discretion require that filings be submitted using a secure drop box and that access to public records be provided by appointment only.
- Guardianship hearings will be conducted as needed, subject to health precautions as determined by the Clerk of Court. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
- Involuntary Commitments will be conducted as needed, subject to health precautions as determined by the Clerk of Court. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.

- Estate administration matters will be conducted, although in-person meetings will be subject to health precautions as determined by the Clerk of Court. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
- Estate hearings shall be postponed for thirty days unless the hearings can be held remotely in accordance with constitutional and statutory safeguards.
- **SPECIAL PROCEEDING HEARINGS and FORCLOSURES (hearings and sales) SHALL BE CONTINUED BEYOND THE 30 DAY PERIOD.**

**All non-suspended hearings before the Clerk shall be held subject to health precautions satisfactory to the presiding clerk. Where available, remote technologies should fully be utilized as authorized by law and the Chief Justice's directives and provided constitutional and statutory safeguards are protected.**

#### **MAGISTRATE AND SMALL CLAIMS**

- Magistrate availability will remain unchanged in the District with normal office hours as previously scheduled and 24 hour availability through on call service, for Warrants for Arrest, Magistrate's Orders, Criminal Summons, Initial Appearances, Cash/Property Bonds, Involuntary Commitment Orders, Juvenile Petitions, and Secured and Non-Secured Custody Orders. Where available, remote technologies should fully be utilized as authorized by law and possible. All appearances before a magistrate are subject to health precautions satisfactory to the presiding magistrate.
- **ALL SMALL CLAIMS COURT PROCEEDINGS INCLUDING SUMMARY EJECTMENTS ARE SUSPENDED FOR 30 DAYS AND ALL PENDING MATTERS WILL BE CONTINUED BEYOND THE 30 DAY PERIOD.**
- **Magistrates are encouraged to consider, in instances where there is not a danger to the community or individual safety and there is not a history of failing to appear, using criminal summons or other pretrial release conditions that would avoid the requirement of arrest and the posting of a secure bond to minimize the impact on the jail population of community spread during this emergency.**
- Subject to health precautions satisfactory to the magistrate, magistrates shall continue to perform weddings in suitable locations approved by the Chief District Court Judge. The Chief District Court Judge may restrict the hours and times at which marriage ceremonies are conducted.

#### **DISTRICT COURT**

- District Court Judges shall be available during normal office hours as instructed by the Chief District Court Judge.
- All **PENDING CIVIL CASES** shall be continued beyond the 30 day period with the following exceptions:
  1. The court will hear returns on emergency custody orders that were entered *ex parte*, returns on secure and non-secure custody that were entered *ex parte*, and return

hearings on *ex parte* domestic violence protective orders. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.

2. The issuance of *ex parte* domestic violence protective orders. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
3. Bond hearings for child support show cause defendants in custody. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
4. Civil hearings, not falling under one of the above exceptions, that can be conducted using remote technologies during the 30 day period and any extensions thereof, provided constitutional and statutory safeguards are protected. In no instance, other than with the express written approval of the Chief District Court Judge and the COVID-19 Coordinator, shall such civil hearings be conducted in person during the 30 day period and any extensions thereof.

**All such hearings to be held subject to health precautions satisfactory to the presiding judge. Where available, remote technologies shall fully be utilized as authorized by law and the Chief Justice's directives and provided constitutional and statutory safeguards are protected.**

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- The District Court will be available for the consideration of whether to enter *ex parte* emergency custody orders as provided by statute.
- The District Court will also hear other emergency matters as provided by statute and provide for a return hearing on any *ex parte* order entered to provide due process.
- Regular non-emergency domestic violence, child custody, juvenile, child support and any other civil matters will be continued to a date beyond the 30 day period.
- **Mediations** will be continued beyond the 30 day period unless all parties are available to conduct them remotely.
- **Drug Treatment cases** including regularly scheduled staffings shall be conducted remotely. If they cannot be conducted remotely, they will be continued until the first regularly scheduled session of drug treatment court beyond the 30 day period or any extensions thereof. All offenders shall remain on probation and are expected to comply with probation and take all reasonable measures to maintain sobriety. Case management services will continue to be provided to the offenders but will be done through electronic, telephone, or other virtual method. DTC team members will remain available to discuss matters virtually.
- All District Court Arbitrations will be continued beyond the 30 day period.
- All pending District Court **CRIMINAL CASES** will be continued to a date beyond the 30 day period or any extensions thereof.
- Criminal matters that will be addressed by the District Court during the 30 day period are as follows:
  1. A bond hearing for those defendants who are in custody provided that 48 hour notice has been given to the State and the Court of the motion for a bond hearing. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
  2. First Appearances. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.

3. Probable Cause Hearings in cases where the 15 day period has not been waived and there is a written demand filed by counsel and 48 hour notice given to the State.
4. Judicial review of initial appearance bonds. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
5. Assignment of counsel to indigent defendants. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
6. Seven day hearings for probation violations where the defendant is being held in custody **solely** because of the pending probation violation. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
7. Criminal matters including pleas, not falling under one of the above exceptions, that can be conducted using remote technologies during the 30 day period and any extensions thereof, provided constitutional and statutory safeguards are protected. In no instance, other than with the express written approval of the Chief District Court Judge and the COVID-19 Coordinator, shall such criminal matters be conducted in person during the 30 day period and any extensions thereof.

**All such hearings to be held subject to health precautions satisfactory to the presiding judge. Where available, remote technologies should fully be utilized as authorized by law and the Chief Justice's directives and provided constitutional and statutory safeguards are protected.**

#### **SUPERIOR COURT**

- Superior Court Judges shall be available during normal business hours
- **ALL PENDING CIVIL AND CRIMINAL SUPERIOR COURT CASES ARE CONTINUED TO A DATE BEYOND THE 30 DAY PERIOD.** The Senior Resident Superior Court Judge in consultation with the District Attorney and the Clerk of Superior Court shall provide the dates for the continuation of Criminal Cases. The Senior Resident Superior Court Judge in consultation with the Superior Court Trial Coordinator shall provide the appropriate dates for the continuation of Civil Cases.
- **Criminal matters that will be addressed by the Superior Court** during the 30 day period are as follows:
  1. A bond hearing for those defendants who are in custody provided that 48 hour notice has been given to the State and the court of the motion for a bond hearing. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
  2. Judicial review of appearance bonds. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
  3. First Appearances that may be conducted in Superior Court and Assignment of counsel to indigent defendants. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
  4. Seven day hearings for probation violations where the defendant is being held in custody **solely** because of the pending probation violation. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.

5. Bond hearings for defendant's not in custody upon 48 hour notice to the opposing party (Counsel for Defendant/State) and the Court. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.

**All such criminal hearings will be held subject to health precautions satisfactory to the presiding judge. Where available, remote technologies should fully be utilized as authorized by law and the Chief Justice's directives and provided constitutional and statutory safeguards are protected**

**Civil matters that may be addressed by the Superior Court during the 30 day period are as follows:**

1. Requests for Temporary Restraining Orders in the sole discretion of the presiding judge. These proceedings may be conducted remotely provided constitutional and statutory safeguards are protected.
2. Civil Hearings that may be conducted remotely in the sole discretion of the presiding judge.

**All such civil hearings approved by the presiding judge will be held subject to health precautions satisfactory to the presiding judge and in accordance with all Administrative Orders. Where available, remote technologies should fully be utilized as authorized by law and the Chief Justice's directives and provided constitutional and statutory safeguards are protected.**

**Notwithstanding the above provisions, nothing herein shall prevent the Senior Resident Superior Court Judge or the Chief District Court Judge from handling a proceeding if the judge determines that the proceeding can be conducted under conditions that protect the health and safety of all participants, in accordance with all Administrative Orders and provided constitutional and statutory safeguards are protected.**

**THE COOP leader in each county shall report the closing of all superior and district court closings in their county during the 30 day period and any extensions thereof.**

**The Clerk of Court shall continue to post the required COVID and face mask notices at the courthouse doors and at the entrances to each courtroom. In addition, magistrates shall post the required COVID and face mask notices at the entrance to their offices.**

*s/ Gary M. Gavenus*

Honorable Gary M. Gavenus

Senior Resident Superior Court Judge

COVID-19 Coordinator

24<sup>th</sup> Judicial District

/S/: Ted W. McEntire

Honorable Theodore W. McEntire

Chief District Court Judge

24<sup>th</sup> Judicial District