

AMENDED ADMINISTRATIVE ORDER RE: COVID-19 OUTBREAK

As most of you are aware, due to the spread of the Coronavirus (COVID-19) and in the interest of controlling the spread of the virus in order to protect the safety and health of our citizens, Chief Justice Cheri Beasley of our North Carolina Supreme Court has issued an order directing local court officials to schedule or reschedule all superior and district court proceedings for a date no sooner than 30 days after March 16th (April 16, 2020). This will clearly and substantially affect our court operations in the 23rd Judicial District. This administrative order is intended to clarify and inform you of the plans and procedures that will be in effect for the District Courts of the 23rd Judicial District until the Chief Justice's order is allowed to expire or is otherwise terminated.

As previously stated, all district court proceedings will be scheduled or rescheduled for a date no sooner than 16 April 2020. There are limited exceptions listed in the Chief Justice's order as set forth below:

1. Proceedings that will be conducted remotely through WebEx or other means;
2. Proceedings necessary to preserve the right to due process of law, such as first appearances, other bond hearings, appointment of counsel for an indigent defendant, probation hearings for defendants in custody, and probable cause hearings. Cases involving defendants in custody, whether misdemeanor or felony offenses, will not automatically be rescheduled. The presiding judge has discretion, on a case by case basis, as to whether any felony plea will be heard, giving due regard to the intent of the Chief Justice's order. Clerks have a plan approved by the undersigned whereby they will notify defendants of their right to counsel, including possible appointment of counsel, in the continuance notices that they send to criminal defendants. Said defendants will be notified of the procedure for requesting court appointed counsel and a clerk will consider the application for appointed counsel and appoint counsel where appropriate. The clerks should feel free to contact a judge with any questions or concerns about a particular application for appointed counsel;
3. Proceedings for the purpose of obtaining emergency relief. Such proceedings include proceedings for domestic violation protection orders (whether an ex parte order has been entered or not), temporary restraining orders, juvenile custody orders (whether secure or nonsecure), judicial consent to juvenile medical treatment orders, and civil commitment orders; or
4. The Chief District Court Judge determines that the proceeding can be conducted under conditions that protect the health and safety of all participants. It is to be understood that this rule shall not be interpreted in such a way as to cause this to be an exception that swallows the

general rule. The Chief Justice has set forth clear, specific exceptions to the continuance of District Court cases, and discretionary exceptions will be granted sparingly under compelling circumstances.

5. No party, attorney, witness, court personnel or other person shall attend a court session if that person has likely been exposed to COVID-19 or if that person is exhibiting symptoms of disease related to the virus, such as fever and coughing.

6. Until further notice, there will be combined criminal/civil court sessions in Alleghany County on Tuesdays, and Friday criminal court will be cancelled.

7. Until further notice, there will be combined criminal/civil court sessions in Ashe County on Wednesdays. Thursday criminal court will be cancelled. Friday DSS courts in Ashe County are not cancelled at this time, subject to change as we see the caseloads on Wednesdays.

8. The District Court Judge assigned to preside at a particular session of court shall be present and hold that court as usual unless the judge has contacted the Clerk's Office of the county to which the judge is assigned at the end of the preceding day and has been advised that there are no cases or other matters to be heard. All judges shall be available on their assigned days to take care of all matters in their assigned court as set forth in the Chief Justice's order.

9. All pending civil cases will be continued as set forth above unless a case falls under a stated exception. If the case was noticed by the Judge's Office, we will send the new notice. If the case was noticed by an attorney, the attorney will need to re-notice the case after 16 April 2020 at the earliest. All other continuance orders/notices will be handled by the appropriate Clerk's Office. Attorneys may bring uncontested summary judgment divorces before presiding judges during the effective dates of the Chief Justice's order.

10. Emergency child custody cases shall be heard during civil court sessions. On or before the scheduled court date, the parties shall submit written affidavits to the court as to their contentions for temporary custody, and after reviewing the affidavits the presiding judge will determine whether to rule based on the affidavits and arguments of the parties/attorneys or after hearing testimonial evidence.

11. If you are involved in a matter which does fall under a stated exception, your case will be dealt with on the appropriate date as usual.

12. Jurors noticed to report to the Yadkin County Courthouse for a District Court civil jury session beginning on 6 April 2020 are released from their obligation to report and serve for that week. Said jurors will automatically be deferred to a later session.

13. The undersigned strongly recommends that each county implement best practices in cleaning and disinfecting their respective courthouses in order to further minimize the chance

of spread of the virus, as well as in their handling of prisoners and members of the general public.

14. Only necessary parties and personnel should be allowed into the courtrooms. Witnesses and others needed to meet due process and statutory standards should be allowed into the courtroom only as needed. To the extent possible, persons in the courtroom should be separated by a minimum of six (6) feet.

Our courts will liberally grant accommodations to parties, witnesses, attorneys, and others with business before the courts, particularly if they are at high risk of severe illness from COVID-19.

As this is a novel situation for all of us, the above order is subject to modification based on the results of the rules implemented.

This order is effective immediately.

This the 19th day of March, 2020.

A handwritten signature in black ink, appearing to read 'D.V. Byrd', with a long horizontal flourish extending to the right.

David V. Byrd

Chief District Court Judge

Judicial District 23